

PARLIAMENTARY INQUIRY QUESTION ON NOTICE

Department of Health

Standing Committee on Rural and Regional Affairs and Transport

Inquiry into definitions of meat and other animal products

7 December 2021

PDR Number: IQ21-000341

Guidelines to assist manufacturers with product labelling

Spoken

Hansard Page number: 16

Senator: Susan McDonald

Question:

CHAIR: I'm reflecting on myself not as a senator, but as a consumer, a mother, an over 50-year-old woman who's trying to eat the best I can and thinking about my consumption when I'm in shops. When I see products on shelves that have a picture of an animal, that have the word for an animal, that have 'beef' as the most prominent word on the packaging, that have the next describer as 'raw prime mince' and with 'beefy, clean plant protein' in very small words along the bottom, that seems off to me as a consumer. I note that in your submission you state that FSANZ does not have a role in relation to the enforcement of the code. However, I understand you have a legislated function to develop guidelines to assist the interpretation of the Australian New Zealand Food Standards Code. Given this issue has been around for a number of years, has FSANZ developed guidelines to assist manufacturers with labelling?

Dr Cuthbert: I might defer that to Jenny.

Ms Hazelton: Yes, we have had guidance provided in the past in relation to assisting particularly industry but also consumers who find that information informative. It was intended to help industry in being able to comply with the food standards code, by giving often a bit more explanation in terms of the intent of what might be the standard around labelling. Yes, historically we have had guidance available around labelling standards.

CHAIR: Would you be able to provide on notice that guidance around labelling, please?

Ms Hazelton: Yes, certainly.

Answer:Labelling User Guides

Previously available on the FSANZ website at: www.foodstandards.gov.au.

ATTACHMENTS

- Attachment A - Overview and Application of F Labelling and Information Requirements
- Attachment B - Legibility Requirements for Food Labels
- Attachment C - Warning and Advisory Statements and Declarations
- Attachment D - Ingredient Labelling of Foods
- Attachment E - Date Marking of Food
- Attachment F - Nutrition Information User Guide
- Attachment G - Percentage Labelling of Food
- Attachment H - Labelling of Alcoholic Beverages



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Overview and Application of Food Labelling and Information Requirements

User Guide

to

**Standard 1.2.1 – Application of Labelling and Other Information
Requirements**

July 2014

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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 and 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 help 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 this User Guide

The purpose of this User Guide is to provide an overview of the requirements for foods to bear a label, requirements for the provision of certain information about foods, and the exemptions for certain foods from the requirement to bear a label. Included in this User Guide are references to other FSANZ user guides that provide more detail about specific labelling and information requirements.

Part A Overview

A1 Introduction

The Code includes labelling and information requirements that are relevant to all foods (Chapter 1 of the Code) as well as labelling and information requirements that apply to specific food products only (Chapter 2 of the Code). Standard 1.2.1 – Application of Labelling and Other Information Requirements sets out how the labelling requirements of the Code apply in different situations and outlines certain exemptions from the requirement for food to bear a label.

A2 Labelling and Information Requirements for Food – Overview

The Code requires information about foods to be on a label or provided in other ways. In general terms, this required information is outlined in section A4 of this User Guide. Exemptions from these labelling requirements are provided for specific food products. Many of these exemptions are given in Standard 1.2.1.

Even though a food may be exempt from bearing a label, certain information requirements may still apply and the information may need to be provided in other ways, including:

- in documentation
- in documentation accompanying the food
- on or in connection with the display of the food
- verbally or in writing upon request.

Sometimes there is more than one option for how particular information can be presented. Specific details are provided in the relevant sections of this User Guide.

Weights and measures declarations

Weights and measures declarations are not regulated in the Code, but are regulated by Australian and New Zealand agencies responsible for trade measurement.

In Australia, the *National Trade Measurement Regulations 2009* regulate the declaration of the quantity statement on pre-packed food. These regulations are administered by the National Measurement Institute.

In New Zealand, weights and measures declarations are regulated in the *Weights and Measures Act 1987* administered by the Ministry of Consumer Affairs.

Advertising

Advertisements for a food must not contain any statement, information, design or representation that is prohibited by the Code from being included in a label for that food.

Code reference

Clause 13 of Standard 1.1.1 – Preliminary Provisions, sets out the prohibitions for advertisements for foods.

A3 Determining what labelling and information requirements apply, what exemptions apply and how information can be provided

The first step is to consider how the food will be sold, specifically whether the food is *food for retail sale*, *food for catering purposes*, or an *intra company transfer*. This determines where your product fits within the food supply chain and consequently, which labelling and information requirements apply, what exemptions apply, and how the required information can be provided. Detailed information is provided within the following Parts of this User Guide, for specific food products:

Part B – Food for retail sale, including hampers and vending machines

Part C – Food for catering purposes

Part D – Food not for retail sale, not for catering purposes, and not for intra company transfer

Part E – Food in small packages.

The definitions and information provided below will help you decide which Part of this User Guide to refer to.

Food for Retail Sale, including hampers and vending machines

Food for retail sale is defined in the Code as follows:

Code Definition

Standard 1.2.1

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.

This means that food for retail sale includes food at the point in which it is for sale to the public, as well as food at the time it is being prepared, or is in the distribution chain, where it is intended that no further processing, packaging or labelling prior to sale to the public will occur.

Foods for retail sale must bear a label setting out all the information prescribed in the Code, except where specifically exempt. However, despite meeting an exemption from the general labelling requirements, certain specific labelling information may still be required.

Code reference

Clause 2 of Standard 1.2.1 sets out the labelling requirements of food for retail sale, including exemptions.

User guide reference

For further details about food for retail sale, refer to Part B of this User Guide – *Foods for Retail Sale, including Hampers and Vending Machines*.

Food for Catering Purposes

Food for catering purposes is defined in the Code as follows:

Code Definition

Standard 1.2.1

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.

When the food is provided for sale to the public, it would be *food for retail sale*.

Foods for catering purposes must bear a label setting out certain information prescribed in the Code, except where specifically exempt. Other information is also required to be provided, but for practical reasons, food businesses generally have greater flexibility in how this information is provided, for example, the information may be provided in document form rather than as a label on a package of food.

Code Reference

Clauses 5 and 6 of Standard 1.2.1 outline the labelling and information requirements for food for catering purposes.

User guide reference

Details about the labelling and information requirements for foods for catering purposes is included in Part C of this User Guide – *Food for catering purposes*.

Food provided by Prisons, Hospitals, and other Similar Institutions

Prisons, hospitals, and other similar institutions are referenced in the Code within the definition of the term *package* in Standard 1.1.1 (see glossary) and in Standard 1.2.11 – Country of Origin Labelling. Facilities which are considered *other similar institutions* are given in the Table to clause 8 of Standard 1.2.1. Labelling requirements for foods provided in prisons, hospitals, and similar institutions will depend on whether the food meets the definition of *food for retail sale*.

Food for Intra Company Transfer

Intra company transfer is defined in the Code as follows:

Code Definition

Standard 1.2.1

Intra company transfer means a transfer of food between elements of a single company, between subsidiaries of a parent company or between subsidiaries of a parent company and the parent company.

An example of an intra company transfer is where a company has two warehouses for food storage on opposite sides of the town and boxes of food are delivered from one of the warehouses to the other warehouse.

There are no information or labelling requirements under the Code specifically for foods for intra company transfer.

Food not for retail sale, not for catering purposes and not for intra company transfer

Food not for retail sale etc is referred to in clause 3 of Standard 1.2.1. Food not for retail sale etc is food that is not *food for retail sale*, *food for catering purposes*, or *food supplied as an intra company transfer*, for example, flour supplied in bulk to a manufacturer to make bread.

Code reference

Clause 3 of Standard 1.2.1 describes the labelling requirements for food not for retail sale, not for catering purposes and not supplied as an intra company transfer, as well as instances where exemptions to these labelling requirements apply.

User guide reference

Refer to Part D of this User Guide – *Food not for Retail Sale, not for Catering Purposes, and not for Intra Company Transfer* for further information.

Food Sold in Small Packages

Small package is defined in the Code as follows:

Code Definition

Standard 1.1.1

Small package means a package with a surface area of less than 100 cm².

Examples of food in small packages could include small, individual confectionery items sold out of display or self-serve dispensing units, single serve cheeses and other single serve dairy products, sauces and condiments, beverage whiteners, sugars and sweeteners.

User guide reference

Refer to Part E of this User Guide – *Application of Labelling and Information Requirements for food in small packages* for further information.

A4 Relevant Standards

General standards

The following standards in Chapter 1 of the Code contain the labelling provisions and information that must be provided for all foods where applicable, and requirements for how this information must be presented, including for foods exempt from bearing a label. There are separate user guides to assist with understanding, interpretation and application of these standards and these are also listed below. Further information about the requirements in these standards is provided in section A5 of this User Guide.

Table 1: Chapter 1 Standards with labelling provisions and applicable user guides

Standard	User Guide
Standard 1.1.1 – Preliminary Provisions—Application, Interpretation and General Prohibitions	Some definitions from this Standard are included in the Glossary to this User Guide.
Standard 1.1A.2 – Transitional Standard for Health Claims	See section A5 of this User Guide
Standard 1.1A.6 – Transitional Standard for Special Purposes Foods (including amino acid modified foods) (New Zealand only)	See section A5 of this User Guide
Standard 1.2.1 – Application of Labelling and Other Information Requirements	This User Guide
Standard 1.2.2 – Food Identification Requirements	See section A5 of this User Guide
Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations	Warning and Advisory Statements and Declarations
Standard 1.2.4 – Labelling of Ingredients	Ingredient Labelling of Foods
Standard 1.2.5 – Date Marking of Food	Date Marking
Standard 1.2.6 – Directions for Use and Storage	See section A5 of this User Guide
Standard 1.2.7 – Nutrition, Health and Related Claims	See section A5 of this User Guide Nutrition Information
Standard 1.2.8 – Nutrition Information Requirements	Nutrition Information

Standard	User Guide
Standard 1.2.9 – Legibility Requirements	Legibility Requirements for Food Labels
Standard 1.2.10 – Characterising Ingredients and Components of Food	Percentage Labelling of Food
Standard 1.2.11 – Country of Origin Labelling (Australia Only)	See section A5 of this User Guide
Standard 1.3.2 – Vitamins and Minerals	Nutrition Information
Standard 1.5.1 – Novel Foods	See section A5 of this User Guide
Standard 1.5.2 – Food Produced using Gene Technology	See section A5 of this User Guide
Standard 1.5.3 – Irradiation of Food	See section A5 of this User Guide

Food Product standards

Some Food Product Standards in Chapter 2 of the Code also include specific information and labelling requirements. These standards are listed below and further information about the requirements in these standards is provided in section A6 of this User Guide. There are also separate user guides relevant to some of these standards, as outlined below.

Table 2: Chapter 2 Standards with labelling provisions and applicable user guides

Standard	User Guide
Standard 2.2.1 – Meat and Meat Products	Meat and Meat Products
Standard 2.2.3 – Fish and Fish Products	See section A6 of this User Guide.
Standard 2.4.1 – Edible Oils	See section A6 of this User Guide.
Standard 2.6.1 – Fruit Juice and Vegetable Juice	See section A6 of this User Guide.
Standard 2.6.2 – Non-Alcoholic Beverages and Brewed Soft Drinks	See section A6 of this User Guide.
Standard 2.6.3 – Kava	See section A6 of this User Guide.
Standard 2.6.4 – Formulated Caffeinated Beverages	See section A6 of this User Guide.
Standard 2.7.1 – Labelling of Alcoholic Beverages and Food Containing Alcohol	Alcoholic beverages
Standard 2.7.4 – Wine and Wine Product	Alcoholic beverages
Standard 2.7.5 – Spirits	Alcoholic beverages
Standard 2.8.2 – Honey	See section A6 of this User Guide.
Standard 2.9.1 – Infant Formula Products	See section A6 of this User Guide.
Standard 2.9.2 – Foods for Infants	See section A6 of this User Guide.
Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods	See section A6 of this User Guide.
Standard 2.9.4 – Formulated Supplementary Sports Foods	See section A6 of this User Guide.

Standard	User Guide
Standard 2.9.5 – Food for Special Medical Purposes	See section A6 of this User Guide. Note that not all of the labelling requirements in Part 1.2 of the Code apply to food for special medical purposes.
Standard 2.10.2 – Salt and Salt Products	See section A6 of this User Guide.

A5 Overview of labelling and information requirements in Chapter 1 of the Code

Standard 1.2.9 – Legibility Requirements

This standard requires that prescribed labelling and information is in English. Information in other languages must not negate or contradict the information in English. It also sets out other requirements relating to legibility for packaged and unpackaged foods and includes size of type requirements for warning statements. All information on a label must be written legibly and prominently such as to afford a distinct contrast to the background. The position of information contained, written, or set out on a label is generally not prescribed.

Other user guides

For further information about legibility, see the FSANZ User Guide *Legibility Requirements for Food Labels*.

Standard 1.2.2 – Food Identification Requirements

Prescribed name

There are a number of names of food that are prescribed in the Code. These are prescribed in applicable Standards in Chapter 2 of the Code. These are as follows:

- Standard 2.2.1 includes various prescribed names for fermented comminuted processed meat (see clause 8) and fermented comminuted manufactured meat (see clause 9), e.g. *fermented manufactured meat – not heat treated*
- *honey* (see Standard 2.8.2)
- *Infant Formula* and *Follow-on Formula* (see clause 12 of Standard 2.9.1)
- *formulated meal replacement*, *formulated supplementary food*, and *formulated supplementary food for young children* (see Standard 2.9.3)
- *formulated supplementary sports food* (see Standard 2.9.4).

If there is a prescribed name for a food in the Code, the prescribed name must be used.

Name or description of the food

If there is no prescribed name for a food, a name or description of the food sufficient to indicate the true nature of the food must be used.

A separate name or description indicating the true nature of the food may be necessary if the food is labelled with a customary name or name that is a registered trademark, and where the name chosen by the manufacturer does not indicate the true nature of the food to the consumer.

Example

The name *Dingle Bar* does not indicate the nature of the food to the consumer, therefore, the manufacturer must also include a description of the food on the label that indicates the true nature of the food (such as *layers of wafer biscuit and caramel covered in milk chocolate*).

As a guide, the name or description should be specific enough to differentiate the food from other foods.

Code reference

Clause 1 of Standard 1.2.2 specifies how a food must be named.

Lot identification

Lot identification is needed to assist in the rare event of a food recall. The lot identification indicates in a clearly identifiable form, the *lot* a food comes from as well as the premises where the food was packed or prepared. The *lot* is a quantity of food which is prepared or packed under essentially the same conditions, usually from a particular preparation or packing unit and during a particular time ordinarily not exceeding 24 hours.

A date mark and the supplier's address may be sufficient to satisfy the requirements of lot identification but this would need to be considered for each food on a case by case basis.

There are some specific exemptions from lot identification. These exemptions are for food in small packages (but only when the bulk packages and bulk container in which the food is stored or displayed for sale includes lot identification) and individual portions of ice cream or ice confection.

Code reference

Clause 2 of Standard 1.2.2 specifies that a package of food must be labelled with lot identification.

Clause 2 of Standard 1.1.1 includes definitions for *lot identification* and *lot* (see Glossary of this User Guide).

Name and business address of supplier

The supplier's name and Australian or New Zealand business address must be included on the label on a package of food to assist in the rare event of a food recall. This makes the identification and notification process easier.

According to the Code, the supplier of the food could be the packer, manufacturer, vendor or importer of the food.

A business address means a description of the location of the premises from which a business in question is being operated; for example the street number, the street name, the town or suburb, and, in Australia, the state or territory. A post office box address is not sufficient.

Code reference

Clause 3 of Standard 1.2.2 specifies labelling and information requirements for the name and business address details of the supplier.

Clause 2 of Standard 1.1.1 includes definitions for business address and supplier (see Glossary of this User Guide).

Standard 1.2.3 – Mandatory warning and advisory statements and declarations

Information must be provided about certain foods and substances, if present in a food, in the form of mandatory declarations, warning statements or advisory statements.

Code reference

Standard 1.1.1 identifies where warning statements are prescribed in the Code.

Standard 1.2.3 identifies advisory statements and other declarations that may be required.

Other user guides

For guidance on the use and application of warning statements, advisory statements and declarations, see the FSANZ User Guide on *Warning and Advisory Statements and Declarations*.

Standard 1.2.4 – Labelling of ingredients

Unless specifically exempt, the label on a package of food must list all the ingredients used in the preparation, manufacture or handling of the food, including the ingredients of compound ingredients. Ingredients include food additives. Standard 1.2.4 sets out specific requirements for how this information must be presented.

Code reference

Standard 1.2.4 identifies the requirements for ingredient listing.

Clauses 2 and 3 of Standard 1.2.4 list exemptions from requirements relating to statements of ingredients.

Other user guides

For guidance on the requirements on the labelling of ingredients see the FSANZ User Guide on *Ingredient Labelling of Foods*.

Standard 1.2.5 – Date marking of food

A date mark must be provided unless an exemption applies. A date mark will be in the form of a *best-before* date or a *use-by* date, although bread with a shelf life of less than seven days may

have a *baked-on* date or *baked-for* date instead of a *best-before* date. A *use-by* date is required when, for health or safety reasons, a food should not be consumed after a certain date.

There are prescribed forms for declaring date marks on the label of food and alternative date marking systems must not be used.

Where applicable, a statement is required of any specific storage conditions to ensure the food will keep for the specified period indicated in the *use-by* date or *best-before* date.

Code reference

Standard 1.2.5 prescribes a date marking system for food and the form in which foods must be date marked.

Clause 1 of Standard 1.2.5 includes definitions of *use-by date*, *best-before date*, *baked-for date* and *baked-on date*.

Paragraphs 2(1)(c) and (d) set out exemptions to the general requirements for date making.

Other user guides

For specific guidance on using and applying date marks, see the FSANZ User Guide on *Date Marking*.

Standard 1.2.6 – Directions for use and storage

Directions for use and/or storage of food are mandatory where the food is of a nature that warrants directions about the use or storage of the food for health or safety reasons, for example, *keep refrigerated* or *cook thoroughly*.

The requirements for directions for use or storage of food as outlined in Standard 1.2.6 operate in addition to the requirement under Standard 1.2.5 for a statement of the conditions of storage, as outlined above.

Certain food product standards in Chapter 2 of the Code prescribe additional specific requirements for directions for use or storage, for example, clause 2 of Standard 2.2.3 – Fish and Fish Products requires cooking instructions for raw fish that has been formed or joined to resemble a cut or fillet of fish using a binding system without applying heat.

Code reference

Standard 1.2.6 regulates labelling requirements for directions for use and storage.

Standard 1.2.7 – Nutrition, health and related claims

This Standard sets out conditions for nutrition content claims and health claims about food, on labels and in advertisements. The Standard also describes the circumstances in which endorsements can be provided on labels or in advertisements.

Food businesses have until 18 January 2016 to ensure they meet Standard 1.2.7. During this time, health claims must comply with either the new Standard (1.2.7) or the Transitional Standard (1.1A.2).

Nutrition content claims are claims about the content of certain nutrients or substances in a food, such as *low in fat* or *good source of calcium*. These claims need to meet certain conditions set out in the Standard. For example, with a *good source of calcium* claim, the food will need to contain not less than the amount of calcium specified in the Standard.

Health claims refer to a relationship between a food and health rather than a statement of content. There are two types of health claims:

General level health claims refer to a nutrient or substance in a food and its effect on a health function. For example: *calcium is good for bones and teeth*.

High level health claims refer to a nutrient or substance in a food and its relationship to a serious disease or to a biomarker of a serious disease. For example: *Diets high in calcium may reduce the risk of osteoporosis in people 65 years and over*.

Food businesses wanting to make general level health claims can base their claims on one of the pre-approved food-health relationships in the Standard (Schedule 3) or self-substantiate a food-health relationship in accordance with detailed requirements set out in the Standard.

High level health claims must be based on a food-health relationship pre-approved by FSANZ. There are currently 13 pre-approved food-health relationships for high level health claims listed in the Standard (Schedule 2).

Health claims will only be permitted on foods that meet the nutrient profiling scoring criterion (NPSC), among other criteria.

There are also conditions for making claims about the presence of a vitamin or mineral and other nutrients in special purpose foods in the Code in Part 2.9 – Special Purpose Foods.

Code reference

Standard 1.1A.2 – Transitional Standard for Health Claims is a transitional standard that operates concurrently with Standard 1.2.7 until January 2016, when Standard 1.1A.2 will cease to operate. Until then, suppliers can rely on either Standard 1.2.7 or Standard 1.1A.2, but not both. Standard 1.1A.2 describes the requirements for health claims in relation to folate and includes prohibitions on certain representations or claims, including references to certain words or statements.

Standard 1.2.7 sets out the conditions for nutrition content claims and health claims.

Standard 1.2.8 includes labelling requirements when nutrition content claims and health claims are made.

Standard 1.3.2 includes conditions for claims made in relation to the vitamin and mineral content of certain foods.

Standard 2.9.2 includes conditions for claims about vitamins, minerals, and protein in relation to food for infants.

Standard 2.9.3 includes conditions for claims relating to vitamins and minerals in relation to formulated meal replacements and formulated supplementary foods.

Standard 2.9.4 includes conditions for ingredient claims, vitamin and mineral claims, high carbohydrate supplements, protein energy supplements, and energy supplements in relation to formulated supplementary sports foods.

Standard 1.2.8 – Nutrition information requirements

Subject to specific exemptions, a label on a package of food must display a nutrition information panel setting out specific information such as the average energy, protein, total fat, saturated fat, carbohydrate, total sugars and sodium content of the food on a per serving and per unit quantity (100 g or 100 ml) basis. A nutrition information panel must be in the prescribed format and must include the number of servings of the food in the package as well as the average quantity of the food in a serving.

There are additional nutrition labelling requirements that apply if you make a nutrition content claim or a health claim about the food.

Code reference

Standard 1.2.8 sets out the nutrition information requirements for food that is required to be labelled and for food exempt from the labelling requirements in the Code.

Standard 1.2.8 includes labelling requirements when certain claims are made.

Other user guides

For further information in relation to nutrition information requirements, see the FSANZ User Guide on *Nutrition Information*.

Standard 1.2.10 – Characterising ingredients and components of food (percentage labelling)

This Standard sets out the specific requirements for the declaration of the proportion of characterising ingredients or characterising components in foods. It includes the methods to use to calculate the proportion of characterising ingredients and characterising components and ways in which the proportion can be declared.

Code reference

Standard 1.2.10 sets out the requirements for percentage labelling.

Other user guides

For guidance on labelling characterising ingredients and components of food see the FSANZ User Guide on *Percentage Labelling of Food*.

Standard 1.2.11 – Country of origin labelling (Australia only)

Standard 1.2.11 sets out the requirements for country of origin labelling of packaged foods and certain unpackaged foods. This Standard does not apply in New Zealand.

Code reference

Standard 1.2.11 describes the requirements for country of origin labelling (Australia only).

Special purpose foods (including amino acid modified foods) (New Zealand only)

Amino acid modified food and *special purpose food* are defined in Standard 1.1A.6 - Transitional Standard for Special Purpose Foods (Including Amino Acid Modified Foods). The Standard also outlines the labelling requirements for these foods, which apply only to food produced in or imported into New Zealand. The Standard is a transitional standard and will cease to apply to foods for special medical purposes (defined in Standard 2.9.5) produced in or imported into New Zealand on the date on which Standard 2.9.5 commences. Other special purpose foods in New Zealand (including products formulated and represented for the management of overweight and obesity) will continue to be regulated under Standard 1.1A.6 until 2 years after any alternative provisions are made for such foods in the Code.

Code reference

Standard 1.1A.6 – Transitional Standard for Special Purpose Foods (Including Amino Acid Modified Foods) defines these foods and describes their labelling requirements

Standard 1.5.1 – Novel foods

A *novel food* is defined in Standard 1.5.1 – Novel Foods. Novel foods that have been approved to be sold for retail sale as food, or for use as a food ingredient, are also listed in that Standard. For some approved novel foods, there are conditions of use, including some labelling requirements. For example, for α -cyclodextrin, the name *alpha cyclodextrin* or α -cyclodextrin must be used when declaring the ingredient in the ingredient list.

Code reference

Standard 1.5.1 – Novel Foods defines *novel food* and describes the conditions of use for approved novel foods, including labelling requirements.

Standard 1.5.2 – Food produced using gene technology

Genetically modified food is food that is, or contains as an ingredient or processing aid, a food produced using gene technology, which either contains novel DNA and/or novel protein, or has altered characteristics.

Food produced using gene technology, other than a substance regulated as a food additive or processing aid, must not be sold or used as an ingredient or component of any food unless it is listed and complies with conditions set out in the Schedule to Standard 1.5.2.

The label on a package of approved genetically modified food must include the statement *genetically modified* in conjunction with the name of the food, ingredient or processing aid. If a food for retail sale is unpackaged, then the information that otherwise would have been on the package must be displayed on or in connection with the display of the food at the point of retail sale.

Code reference

Standard 1.5.2 – Food Produced Using Gene Technology includes a definition of *genetically modified food* and describes the labelling requirements and exemptions from these, for genetically modified foods.

Standard 1.5.3 – Irradiation of food

There are labelling requirements in relation to foods which have been irradiated. Specifically, the label on a package of irradiated food must include a statement to the effect that the irradiated food has been treated with ionising radiation. There are similar requirements for foods that contain an irradiated food as an ingredient or component.

Code Reference

Standard 1.5.3 – Irradiation of Food includes a definition of *irradiation* and prescribes the labelling requirements for irradiated foods.

A6 Labelling requirements for specific food products

In some cases, the Food Product Standards in Chapter 2 of the Code require that specific information is provided on the labels of certain classes or types of foods, in addition to the information outlined above.

Table 3: Examples of additional labelling required for certain commodities

Standard	Requirement
Standard 2.2.1 – Meat and Meat Products	Declaration of offal; fat declarations in relation to minced meat; labelling of formed or joined meat; prescribed names and the labelling of fermented comminuted manufactured meat and fermented comminuted processed meat.
Standard 2.2.3 – Fish and Fish Products	Labelling of formed or joined fish.
Standard 2.4.1 – Edible Oils	A declaration of any process used to alter the fatty acid composition of any specifically named edible oil.
Standard 2.6.1 – Fruit Juice and Vegetable Juice	Labelling of juice blends.
Standard 2.6.2 – Non-Alcoholic Beverages and Brewed Soft Drinks	Labelling of electrolyte drinks and electrolyte drink bases; prohibition on labelling or presenting for sale non-alcoholic beverages as alcoholic beverages.
Standard 2.6.3 – Kava	Warning statement for kava.

Standard	Requirement
Standard 2.6.4 – Formulated Caffeinated Beverages	Compositional declarations in association with the nutrition information panel; advisory statements.
Standard 2.7.1 – Labelling of Alcoholic Beverages and Food Containing Alcohol	Alcohol by volume statements; standard drink labelling; representations about <i>low alcohol</i> , <i>non-intoxicating</i> and <i>non-alcoholic</i> .
Standard 2.7.4 – Wine and Wine Product	There are no labelling requirements in this Standard, but other relevant legislation that should be considered is listed in the Editorial note in this Standard.
Standard 2.7.5 – Spirits	Geographical indication conditions applying to spirits.
Standard 2.8.2 – Honey	Prescribed name for honey.
Standard 2.9.1 – Infant Formula Products	Specific labelling requirements, including prescribed names; prohibitions on certain representations and claims; directions for preparation, use and storage; conditions placed on lactose free and low lactose formulas; and warning and advisory statements.
Standard 2.9.2 – Foods for Infants	Conditions placed on particular claims made, prohibitions on certain representations; directions for use and storage; declarations relating to specific nutrient and energy information; and warning statements.
Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods	Declarations of average quantities of vitamins and minerals; conditions placed on certain claims about vitamins and minerals; advisory statements in relation to use, and prescribed names.
Standard 2.9.4 – Formulated Supplementary Sports Foods	Advisory statements in relation to use; warning statement; prescribed name; prohibition on certain representations; and conditions placed on certain claims made.
Standard 2.9.5 – Food for Special Medical Purposes	Only certain generic labelling provisions in Part 1.2 of the Code apply to foods for special medical purposes (FSMP) (refer to paragraph 3(1)(d) and Division 4). Some additional labelling statements specific to FSMP also apply (e.g. statements about medical supervision, sole source of nutrition, intended age group etc.) (refer to Division 4).
Standard 2.10.2 – Salt and Salt Products	Labelling of reduced sodium salt mixtures and salt substitutes.
Standard 2.10.3 – Chewing Gum	Conditions placed on claims about calcium in relation to chewing gum, and additional labelling requirements where a calcium claim is made.

A7 Representations about food

All representations about food are subject to a wider regulatory context that should be considered. Food businesses need to ensure that all representations are not false, misleading or deceptive or likely to mislead or deceive consumers about a food.

Food legislation in Australia and New Zealand include provisions relating to representations about food, i.e. the Food Acts of Australian states and territories and in New Zealand, the *Food Act 1981*.

Consumer Protection Legislation

The *Competition and Consumer Act 2010* (Australia) also has provisions relating to misleading and deceptive conduct, which apply to representations in food labelling, packaging or advertising. The Australian Competition and Consumer Commission (ACCC) enforces this Act.

In New Zealand, the *Fair Trading Act 1981* prohibits false and misleading consumer information. The Commerce Commission enforces this Act.

A8 Frequently asked questions

What type size and type style must be used on labels?

In general, any type style can be used provided that the information displayed is in English and is legible and prominent such as to afford a distinct contrast to the background.¹ Further requirements apply to specific warning statements, and country of origin statements.

Other user guides

For information, see the FSANZ User Guide on *Legibility Requirements for Food Labels*.

Which labelling requirements apply to imported foods?

Labelling and information requirements in the Code apply to food imported into Australia or New Zealand. Consequently, the requirements included in the Code and summarised in this User Guide apply to imported foods for sale in Australia or New Zealand.

Who approves food labels?

It is the responsibility of food businesses to ensure that food labelling complies with requirements in the Code. FSANZ does not provide approval of food labels. Food businesses should seek independent legal advice if they are concerned about matters of compliance.

Is it permissible to alter a label?

Clause 11 of Standard 1.1.1 allows a label to be altered by placing a new label over an incorrect one, as long as the new label is not able to be removed so that the incorrect information is visible and specific permission is obtained from the relevant authority responsible for enforcing requirements of the Code.

¹ However, clause 3 of Standard 1.2.9 sets out size of type requirements in relation to warning statements.

Part B – Food for Retail Sale, including Hampers and Vending Machines

B1 What is food for retail sale?

Food for retail sale is defined in the Code.

Code Definition

Standard 1.2.1

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 retail sale includes food at the point in which it is for sale to the public. Food for retail sale also includes food at the time it is manufactured or otherwise prepared or distributed, where it is intended that no further processing, packaging or labelling will occur prior to sale to the public. Therefore, the responsibility of labelling food for retail sale lies with the relevant food business in the food supply chain, including the manufacturer, retailer or importer of the food.

B2 Information and labelling requirements for food for retail sale

In most circumstances, food for retail sale is required to bear a label setting out all the information prescribed in the Code. This includes the information from Chapter 1 of the Code, such as the name of the food, a date mark, and an ingredient list.

In addition to the general information and labelling requirements for food for retail sale contained in Chapter 1 of the Code, other information is prescribed in the Code for specific food products – these requirements are contained within the standards in Chapter 2 of the Code.

Other User Guides

For further general information on the labelling requirements that apply to food for retail sale see Part A of this User Guide.

Many of the labelling requirements are also discussed specifically in user guides that cover individual standards of the Code. These are listed in Part A of this User Guide.

B3 Exemptions from labelling, and information requirements that apply to food for retail sale

Exemptions from labelling requirements

Subclause 2(1) of Standard 1.2.1 lists specific circumstances where foods for retail sale do not need to bear a label setting out all the information prescribed in the Code. These foods are listed in Table 4 below.

Despite not being required to bear a label, there are information requirements that must nonetheless be complied with for these foods. The specific information requirements and options for how the information can be provided are detailed in the following section and Table 5.

Table 4: Foods for retail sale that are exempt from the general requirement to bear a label (under subclause 2(1) of Standard 1.2.1)

Exempt food	Reference in the Code	Notes and examples
Food not in a package	Standard 1.2.1 Subclause 2(1)(a) <i>Package</i> is defined in Standard 1.1.1	<p>The following may be examples of <i>food not in a package</i>:</p> <ul style="list-style-type: none"> fruits or vegetables hampers (although this exemption applies only to the outside of the hamper itself, it does not apply to food sold within the hamper). Although the definition of <i>package</i> in Standard 1.1.1 specifically excludes hampers, hampers have specific requirements – refer to subclause 2(4) of Standard 1.2.1 and to section B4 of this User Guide. food dispensed by vending machines. Vending machines have specific requirements – refer to section B5 of this User Guide. <p>Food is not considered to be in a package if it is served on a covered plate, cup, tray or other food container within prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1 (refer to definition of <i>package</i> in Standard 1.1.1).</p>
Food in an <i>inner package</i> not designed for individual sale. Although <i>individual portion packs</i> in a container or wrapper with a surface area of 30cm ² or greater must bear a label containing information in accordance with	Standard 1.2.1 paragraph 2(1)(b)	<p>An <i>inner package</i> could, for example, include a package or packages of food contained within an outer pack, e.g. cellophane wrapped cracker biscuits.</p> <p>An <i>individual portion pack</i> could, for example, include single serve packages that would normally be removed from the outer package and consumed separately as an individual serve e.g. muesli bars, fruit bars, cheese sticks and single serve chocolates.</p> <p>Individual portion packs that have a surface area of 30 cm² or greater are required to bear a label with mandatory warning statements under clause 3 of Standard 1.2.3 and the mandatory declarations required under clause 4 of Standard 1.2.3 if they contain the foods or substances listed in these clauses. For</p>

Exempt food	Reference in the Code	Notes and examples
clauses 3 and 4 of Standard 1.2.3		example, statements or declarations for packs of food containing royal jelly, cereals containing gluten or peanuts.
Food made and packaged on the premises from which it is sold	Standard 1.2.1 paragraph 2(1)(c)	<p>This exemption may apply where food is made and packaged (e.g. weighed, dispensed, counted, or measured into a pack by the customer or retailer) on the same premises at which the retail sale takes place. Examples are pre-packaged filled rolls, sandwiches, bagels made, packaged and sold from a sandwich bar, and foods made, packaged and sold in a bakery, delicatessen, butchery or take away food outlet.</p> <p>This exemption may not apply where food items that are made and packaged at a site are then transported to another site for retail sale where no further preparation occurs, for example, a bakery that transports bread for retail sale to satellite bakeries. These items may need to comply with all the relevant labelling requirements, or there may be other labelling exemptions that are applicable.</p>
Food packaged in the presence of the purchaser	Standard 1.2.1 paragraph 2(1)(d)	Examples of this may include food packaged in the presence of the purchaser from a bulk food bin, a delicatessen, or a self-serve salad bar.
Whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables	Standard 1.2.1 paragraph 2(1)(e) <i>Fruit and vegetables</i> is defined in Standard 2.3.1 – Fruit and Vegetables (see Glossary to this User Guide)	<p>This exemption may include:</p> <ul style="list-style-type: none"> • bulk packs of fruit or vegetables sold in a mesh bag • whole or cut fruit or vegetables sold in clear plastic packaging, such as ready-to-eat vegetables and fruit salads.
Food delivered packaged and ready for consumption at the express order of the purchaser	Standard 1.2.1 paragraph 2(1)(f)	<p>This would include food:</p> <ol style="list-style-type: none"> 1) delivered packaged; 2) ready to consume (e.g. without further preparation or cooking); and 3) at the express order of the purchaser (e.g. where a consumer has ordered pizza to be delivered). <p>This exemption does not apply to food sold from a vending machine (subclause 2(3) of Standard 1.2.1). Vending machines have specific requirements – refer to section B5 of this User Guide.</p>
Food sold at fund raising events	Standard 1.2.1 paragraph 2(1)(g)	This exemption may apply where food is sold at an event <i>and</i> the funds raised at the event are solely for community or

Exempt food	Reference in the Code	Notes and examples
	<i>Fund raising events</i> ² is defined in Standard 1.1.1	charitable purposes and not for personal financial gain.
The food is packaged and displayed in an assisted service display cabinet	Standard 1.2.1 paragraph 2(1)(h) <i>Assisted service display cabinet</i> is defined in Standard 1.2.1	<p>This exemption could include situations where a food business purchases packaged food, or unpackaged or bulk quantities of food, and packages the food into smaller portions, and then displays the packaged food in a cabinet for service to consumers. Examples may include:</p> <ul style="list-style-type: none"> • a whole cake purchased by a cafe, cut into portions, wrapped in clear plastic food wrap and displayed in a cabinet, where the cafe operator will provide the food to the customer on request; and • doughnuts, slices, sandwiches, rolls and other similar items that are purchased by the food business and displayed packaged, in a cabinet, where the food business operator will provide the food to the customer on request. <p>The exemption is not intended to include foods, such as covered meat trays, displayed in a refrigerated cabinet where food can be self-selected by the customer without assistance, for example: in a supermarket setting where there is no assisted service.</p>

Information and labelling requirements for foods for retail sale exempt from bearing a label

Table 5 below details the information that is required for food for retail sale that is exempt from bearing a label in accordance with subclause 2(1) of Standard 1.2.1. The table also includes how food businesses must provide this information. Each requirement will not necessarily apply to every food product that is exempt from bearing a label, i.e. many relate only to specific foods, or in specific instances.

Table 5: Information requirements that must be met for foods for retail sale that are exempt from bearing a label under subclause 2(1) of Standard 1.2.1

Requirement	Code Reference	Provision of Information	Further information
Specific information regarding the name or, in some cases, the description of the food must be provided.	Subclause 1(2) of Standard 1.2.2	Displayed on or in connection with the display of the food, or, provided to the purchaser upon request.	Part A of this User Guide

² Fundraising organisers would also need to ensure that they are compliant with relevant local, state, territory or New Zealand legislation when conducting a fund raising event as specific requirements may apply.

Requirement	Code Reference	Provision of Information	Further information
Mandatory advisory statements that apply to specific foods as listed in the Table to subclause 2(2) must be provided.	Subclause 2(2) of Standard 1.2.3	Displayed on or in connection with the display of the food or provided to the purchaser upon request.	FSANZ's User Guide <i>Warning and Advisory Statements and Declarations</i> .
Advisory statement in relation to foods containing polyols or polydextrose - where a food containing any of the substances referred to in subclause 5(1) of Standard 1.2.3 above the amounts specified, does not have to bear a label – an advisory statement must be provided to the effect that excess consumption of the food may have a laxative effect.	Subclause 5(2) of Standard 1.2.3	In the case of food dispensed from vending machines, the information must be displayed on or in connection with the food.	For vending machines – see section B5 of this User Guide.
Prescribed warning statements must be provided as described, where a relevant food (as listed in the Table to clause 3 of Standard 1.2.3) is not required to bear a label.	Subclause 3(2) of Standard 1.2.3	Displayed on or in connection with the display of the food. Or, for food dispensed from a vending machine, the statement must be displayed on or in connection with the food.	FSANZ's User Guide <i>Warning and Advisory Statements and Declarations</i> . For vending machines, see section B5 of this User Guide.
Mandatory declarations in relation to the presence in a food of the specific substances listed in the Table to clause 4 of Standard 1.2.3, where the food does not have to bear a label, must be provided as specified.	Subclause 4(2) of Standard 1.2.3	Displayed on or in connection with the display of the food. Or, for food dispensed from a vending machine, the statement must be displayed on or in connection with the food.	FSANZ's User Guide <i>Warning and Advisory Statements and Declarations</i> For vending machines, see section B5 of this User Guide.
Directions for use or storage of food must be provided where the food is of a nature as to warrant such directions for reasons of health or safety (clause 2). In addition, specific statements around use or storage must be provided in the case of the specific foods listed in the Table to clause 1 of Standard 1.2.6.	Standard 1.2.6	Unpackaged food must be either labelled with or accompanied by the required information. For packaged food this information must be provided on the label.	Part A of this User Guide
Additional information about certain properties of food must be provided for food that is required	Subclause 25(5) of Standard 1.2.7	Must be provided to the purchaser on request or displayed	

Requirement	Code Reference	Provision of Information	Further information
to meet the nutrient profiling scoring criterion (NPSC) in order to make certain claims.		on or in connection with the display of the food.	
<p>Nutrition information requirements where a <i>claim requiring nutrition information</i> is made in relation to a food that is not required to bear a label, the nutrition information prescribed in clause 5 of Standard 1.2.8 must be provided as specified.</p> <p>However, if the <i>claim requiring nutrition information</i> is made for food in a small package, the information required by clause 8 of Standard 1.2.8 must nonetheless be provided on the label.</p>	<p>Subclauses 4(2) and 4(3) of Standard 1.2.8</p> <p><i>A claim requiring nutrition information</i> is defined in clause 4 of Standard 1.2.8 (see Glossary in this User Guide).</p>	Declared in a nutrition information panel displayed on or in connection with the display of the food, or provided to the purchaser on request.	<p>FSANZ's User Guide <i>Nutrition Information</i></p> <p>Part E of this User Guide.</p>
Unless covered by an exemption, the percentage of characterising ingredients and characterising components in unpackaged foods and foods that are made and packaged on the premises from which they are sold (calculated and expressed in accordance with Standard 1.2.10) must be declared as specified.	<p>Subclause 2(3) of Standard 1.2.10.</p> <p>However, see also subclause 2(4), which lists exemptions to subclause 2(3) of Standard 1.2.10.</p>	Displayed on or in connection with the display of the food, or provided to the purchaser on request.	FSANZ's User Guide <i>Percentage labelling of food</i> .
<p>Where unprocessed fruit and vegetables (whole or cut) are displayed for retail sale in a package that does not obscure the nature or quality of the food, the food must be labelled with a statement setting out specific country of origin information as specified (for Australia only).</p> <p>Certain country of origin information must also be provided in a statement, as specified, for foods that are displayed for retail sale other than in a package (as listed in the Table to subclause 3(1)).</p> <p>Food businesses must also comply with additional legibility requirements in relation to the size of the type, where food is</p>	<p>Subclauses 2(3) and 2(4) of Standard 1.2.11.</p> <p>Clause 3 of Standard 1.2.11.</p>	<p>Statement on a label on the package of fruit and vegetables or in connection with the display of the package of fruit and vegetables.</p> <p>Statement on a label on or in connection with the display of the food.</p>	FSANZ's User Guide to Standard 1.2.9 – <i>Legibility Requirements for Food Labels</i> refers to the requirements for the height of the required statement.

Requirement	Code Reference	Provision of Information	Further information
displayed for retail sale other than in a package.			
Declaration in relation to food produced using gene technology - the statement: <i>genetically modified</i> must be provided for genetically modified food that is displayed for retail sale other than in a package. An exemption from the requirement above applies for food produced using gene technology where the food is intended for immediate consumption and is prepared and sold from food premises and vending vehicles, including restaurants, take-away outlets, caterers or self-catering institutions.	Subclause 4(3) of Standard 1.5.2 Subclause 4(4) of Standard 1.5.2	Displayed on or in connection with the display of the food.	Standard 1.5.2 defines <i>genetically modified food</i> and <i>food produced using gene technology</i> .
Where an irradiated food or food containing an irradiated food as an ingredient or component does not have to bear a label – a statement to the effect that the food has been treated with ionising radiation, or that it contains an ingredient or component that has been treated with ionising radiation, as the case may be, must be displayed as specified.	Subclause 6(3) of Standard 1.5.3	Displayed on or in connection with the display of the food.	Example statements are given in Standard 1.5.3.
Declaration in relation to the presence of offal for food not required to bear a label.	Clause 4 of Standard 2.2.1	Must be declared to the purchaser (e.g. verbally or in writing).	Standard 2.2.1 defines <i>offal</i> . FSANZ's User Guide <i>Meat and meat products</i> .
Declaration in relation to mandatory fat content of minced meat for food not required to bear a label.	Clause 5 of Standard 2.2.1	Displayed on or in connection with the display of the food, or provided to the purchaser on request.	FSANZ's User Guide <i>Meat and meat products</i> .
Declaration and cooking instructions in relation to raw meat joined or formed into the semblance of a cut of meat using a binding system without the application of heat for food not required to bear a label.	Clause 6 of Standard 2.2.1	Must be provided to the purchaser (e.g. verbally or in writing).	FSANZ's User Guide <i>Meat and meat products</i> .
Display of the prescribed name of	Clause 10 of	Displayed in	Clauses 8 and 9 of

Requirement	Code Reference	Provision of Information	Further information
unpackaged fermented comminuted manufactured meat and fermented comminuted processed meat products offered for sale other than in a package. Use of <i>not heat treated</i> for these foods.	Standard 2.2.1	connection with the food.	Standard 2.2.1 set out prescribed names for fermented comminuted manufactured meat and fermented comminuted processed meat products. FSANZ's User Guide <i>Meat and Meat Products</i> .
Declaration in relation to raw fish that has been formed or joined in the semblance of a cut or fillet of fish using a binding system without the application of heat – for food not required to bear a label.	Clause 2 of Standard 2.2.3	Must be provided to the purchaser (this could be verbally or in writing).	<i>Fish</i> is defined in Standard 2.2.3.
For kava not in a package – the name and business address in Australia or New Zealand of the supplier of the food, and the prescribed statements in subclause 3(1) are required.	Subclause 3(2) of Standard 2.6.3	Displayed on or in connection with the display of the food.	Standard 2.6.3
For formulated caffeinated beverages not required to bear a label, requisite advisory statements set out in subclauses 3(3) and 3(4) of Standard 2.6.4 must be provided as specified.	Subclause 3(5) of Standard 2.6.4	Displayed on or in connection with the display of the food, or provided to the purchaser on request.	<i>Formulated caffeinated beverage</i> is defined in Standard 2.6.4. Subclauses 3(3) and 3(4) of Standard 2.6.4 detail the advisory statements required for formulated caffeinated beverages.
Specific labelling statements and other information is required on the label of a package of formulated supplementary sports food. A specific statement is also required on the label of a formulated supplementary sports food which contains added phenylalanine: <i>Phenylketonurics: Contains phenylalanine</i> .	Subclauses 3(1), 3(2), 3(3) and 3(4) of Standard 2.9.4	Must be provided on the label on the package.	<i>Formulated supplementary sports food</i> is defined in Standard 2.9.4.

B4 Hampers

What is a hamper?

Hampers are defined in the Code.

Code Definition

Standard 1.1.1

Hamper means a decorative basket, box or receptacle containing any number of separately identifiable food items.

(A hamper may also contain non-food items such as decorative cloths, glasses and dishes.)

The meaning of the term *hamper* suggests that *hamper* is not intended to capture a broad range of other packaged foods such as snack packs, meal packs, cheese boards or bulk packs that are not packaged in a decorative manner.

Food for sale to the public within a hamper is likely to be *food for retail sale* (see definition of *food for retail sale* in the glossary).

Information and Labelling Requirements for Hampers

Hampers sold as food for retail sale have specific labelling requirements, set out in subclauses 2(4) of Standard 1.2.1 and 3(3) of Standard 1.2.2. These are outlined below.

On the outside of a hamper

A *hamper* is specifically excluded from the definition of a *package* (see the definition of *package* in the glossary). Under subclause 2(4) of Standard 1.2.1, the outside of a hamper would be exempt from the requirement to bear a label with all of the information prescribed in the Code. Instead, food sold in a hamper in a package must bear a label setting out such information; and unpackaged food sold in a hamper must be accompanied with documentation setting out such information. However, the name and business address of the supplier of the hamper (or of the food within the hamper) must be displayed on the label on a hamper (subclause 3(3) of Standard 1.2.2). In the case of a food business that purchases items from another business and uses them to prepare a hamper, it would be good practice for the food business preparing the hamper to provide their details on the outside of the hamper.

Code definitions

Standard 1.1.1

Supplier means the packer, manufacturer, vendor or importer of the food in question.

Business address means a description of the location of the premises from which the business in question is being operated, but does not include a postal address.

Food items within the hamper

Subclause 2(1) of Standard 1.2.1 states that, in general and unless specifically exempted in paragraphs 2(1)(a)-(h), food for retail sale must bear a label setting out all the information prescribed in the Code. However, all food for retail sale, even food listed in paragraphs 2(1)(a)-(h), must comply with certain requirements listed in subclause 2(2).

Subclause 2(1) does not apply to food sold in hampers. Specific requirements listed in paragraphs 2(4)(b) and (c) of the Standard apply to food sold in hampers.

Each packaged food item within a hamper must bear a label providing all the information prescribed in the Code (paragraph 2(4)(b) of Standard 1.2.1).

Unpackaged food items within a hamper must be accompanied with documentation setting out the information prescribed in the Code (paragraph 2(4)(c) of Standard 1.2.1), for example, a pamphlet setting out the requisite information could be included within the hamper.

Where food sold in a hamper is in a small package (as defined in Standard 1.1.1, see Glossary to this User Guide), the food would need to comply with the labelling requirements in the Code related to food in small packages (see, for example, clauses 8 and 8A of Standard 1.2.8 and see also Part E of this User Guide).

Date marking in relation to hampers

A date mark must be included on the label on a package of food unless an exemption applies (clause 2 of Standard 1.2.5).

Date marking requirements do not apply to food that is not in a package. Consequently, as *hamper* is specifically excluded from the definition of *package*, the date marking requirement does not apply to the outside of a hamper.

Despite this, food must not be sold past its use-by date (clause 3 of Standard 1.2.5), and any relevant date marking of food sold in a hamper should be considered. Where a food business packs a hamper for a food retailer, and the date marks on individual foods within the hamper are not visible from outside the hamper, date marking information for the foods sold within the hamper may be provided to, or sought by, the retailer.

B5 Vending machines

What is a vending machine?

The term vending machine is not defined in the Code. Examples of vending machines may include: coin or token operated machines and appliances such as machines containing snacks or soft drinks in shopping malls, or hot coffee or chocolate or ice confectionery machines at petrol service stations. Bulk self-serve food containers which dispense foods such as nuts or chocolates in supermarkets may not be considered vending machines.

Some Australian jurisdictions and New Zealand have additional legal requirements specifically related to vending machines and food businesses should check details of those requirements with the relevant jurisdiction.

Information and labelling requirements for vending machines

Labelling and information requirements for food dispensed from vending machines

Under the Code, a vending machine is specifically excluded from the definition of a *package* (see definition of *package* in glossary). This has ramifications for food items dispensed from vending machines in terms of the labelling and information requirements that apply to the food.

Food businesses should consider whether each food item dispensed from a vending machine is covered by an exemption from having to bear a label as required by subclause 2(1) of Standard 1.2.1. In doing so, however, food businesses should note that the following exemption: *the food is delivered packaged, and ready for consumption, at the express order of the purchaser* (paragraph 2(1)(f) of Standard 1.2.1) does not apply to food sold from vending machines (see subclause 2(3) of Standard 1.2.1).

Food businesses should also note that even where the food item dispensed from a vending machine does meet an exemption from bearing a label, there are information requirements that may still need to be met, such as those in subclause 2(2) of Standard 1.2.1 (refer to the following section and Table 5 above for detail).

Certain information requirements also apply to the vending machine itself. For example, the name and business address in Australia or New Zealand of the supplier of the food must be clearly displayed in a prominent place either in or on the vending machine (subclause 3(2) of Standard 1.2.2). These details assist in the event of a food recall.

Code definitions

Standard 1.1.1

Supplier means the packer, manufacturer, vendor or importer of the food in question.

Business address means a description of the location of the premises from which the business in question is being operated, but does not include a postal address.

Information requirements for food sold from vending machines that is exempt from bearing a label

Where food sold from a vending machine does not have to bear a label, there are specific requirements as to what information must be provided about the presence of certain substances and how this information must be provided. In particular, these requirements include:

- mandatory advisory statements and declarations (clause 2 of Standard 1.2.3)
- mandatory warning statements (clause 3 of Standard 1.2.3)
- mandatory declaration of certain substances in food (clause 4 of Standard 1.2.3)
- advisory statements in relation to polyols or polydextrose (clause 5 of Standard 1.2.3).

The requisite information must be *displayed on or in connection with food dispensed from a vending machine*. For example, the information could be presented on the outside of the vending machine, or in a poster, leaflet or brochure displayed in association with the food.

Certain information, other than that mentioned above, which is required for food sold from a vending machine that is exempt from bearing a label as provided in subclause 2(2) of Standard 1.2.1, can be provided in the same way as for other foods for retail sale. For example, the information can be displayed on or in connection with the display of the food (see Table 5 above).

B6 Examples

NB. The lists of labelling requirements in these examples are not exhaustive and can apply to various types of foods. You will also need to consider whether other labelling and information requirements for particular foods in the Code may be relevant.

Example 1 – Food for retail sale

A local café chain is selling prepackaged sandwiches from a self-serve buffet in one of its outlets. The sandwiches are sold packaged in clear plastic containers and are made from bread, mayonnaise, anchovies and salad. They are prepared in a central kitchen and distributed to three outlets. (The sandwiches do not contain food that has been produced with gene technology or irradiated.)

Step 1

The first step is to consider whether the food in question constitutes *food for retail sale*. For the purposes of this example only, it is assumed that the sandwiches are *food for retail sale* in this instance.³

Step 2

If the food does not meet any of the general exemptions in clause 2 of Standard 1.2.1, it must be labelled with all the information prescribed in the Code.

Step 3

Check through the individual labelling standards in the Code for specific exemptions that may apply to the sandwiches. Then consider whether labelling requirements apply, for example, labelling the prepackaged sandwiches with:

1. A prescribed name, name or a description of the food as the case may be (subclause 1(1) of Standard 1.2.2)
2. Lot identification (clause 2 of Standard 1.2.2)
3. Name and business address in Australia or New Zealand of the supplier (clause 3 of Standard 1.2.2)
4. Mandatory declarations (e.g. egg, fish, milk and milk products, gluten) (Standard 1.2.3)
5. Statement of ingredients (Standard 1.2.4)
6. Date marking (Standard 1.2.5)

³ The Code defines the term *food for retail sale* – see clause 1 of Standard 1.2.1. It is not for FSANZ to determine whether a particular food falls within this definition and the above example should not be taken as such advice. As explained on page 4 of this Guide, the application and enforcement of the Code is a matter for State, Territory and New Zealand authorities. Readers should also note the disclaimer on page 4 of this Guide.

7. Directions for use and storage (where for reasons of public health and safety, consumers need appropriate directions for use or storage of the food (subclause 2(1) of Standard 1.2.6)

and whether the sandwiches are exempt from being required to have a label with:

1. A nutrition information panel (under subclause 3(m) of Standard 1.2.8)
2. Percentage labelling (characterising ingredients or components) (under subclause 2(4) of Standard 1.2.10)
3. Country of origin (under subclause 1(1) of Standard 1.2.11)

Example 2 – Food exempt from the general requirement to bear a label

A delicatessen buys cheese in bulk from a supplier. The delicatessen then cuts the cheese into smaller pieces, packages them in clear wrap and displays them in a refrigerated display cabinet to sell to their customers. Only the employees can access the cabinet and they serve the food as requested by the purchasers.

Step 1

The first step is to consider whether the food in question constitutes *food for retail sale*. For the purposes of this example only, it is assumed that the cheese is *food for retail sale* in this instance.⁴

Step 2

The cheese is packaged and displayed in a refrigerated display cabinet. If that cabinet falls within the definition of an *assisted service display cabinet*, it would be exempt from general labelling requirements (paragraph 2(1)(h) of Standard 1.2.1), but certain information must still be provided (subclause 2(2) of Standard 1.2.1).

Step 3

After checking through the standards listed in subclause 2(2) of Standard 1.2.1, you would need to consider what additional information listed in subclause 2(2) must be provided, and if so, how it is to be provided.

Examples of additional information to be provided on or in connection with the display of food or, in some cases, provided to the customer on request:

- the food's prescribed name if any; or a name or a description of the food sufficient to indicate its true nature (clause 1 of Standard 1.2.2)
- mandatory warning or advisory statements; or declarations of certain substances, e.g. contains milk and milk products (clauses 2-5 of Standard 1.2.3).

An example of additional information to be provided on the label of the package of food is directions for use and storage where, for reasons of public health and safety, consumers need appropriate directions for use or storage of the food (Standard 1.2.6).

⁴ See footnote 3 above.

When considering whether the additional information listed in subclause 2(2) of Standard 1.2.1 must be provided, you should also consider whether:

- the additional information is relevant to the package of cheese, e.g. the requirement in subclause 2(3) of Standard 1.2.10 (referred to in paragraph 2(2)(f) of Standard 1.2.1) only applies to food that is unpackaged; or food that is made and packaged on the premises from which it is sold
- the package of cheese is covered by specific exemptions from having to provide such information, e.g. country of origin labelling, because subclauses 2(3) and 2(4) and clause 3 of Standard 1.2.11 do not apply to cheese.

Example 3 – food sold at a fundraising event

A volunteer prepares shortbread biscuits, made from butter, plain flour, rice flour and sugar, to be sold at a school fete. They are wrapped in clear cellophane. All proceeds from the fete go to the school in an effort to raise funds for their new school library.

Step 1

The first step is to consider whether the food in question constitutes *food for retail sale* sold at a *fundraising event*. For the purposes of this example only, it is assumed that the shortbread biscuits are *food for retail sale* sold at a *fundraising event* in this instance.⁵

Step 2

The shortbread biscuits are to be sold at a fundraising event. As such, you would need to consider whether the biscuits are exempt from having to bear a label setting out all the information prescribed in the Code (subclause 2(1) of Standard 1.2.1).

Step 3

If the package of biscuits is exempt from having to bear a label setting out all the information prescribed in the Code under subclause 2(1) of Standard 1.2.1, certain information must still be provided under subclause 2(2) of Standard 1.2.1. You would have to consider whether any of those requirements apply. Examples of requirements are as follows.

Information to be provided on a label on the package of food; on or in connection with the display of the food; or to the purchaser if requested:

- A name or description of the food (subclause 1(2) of Standard 1.2.2)
- Declaration of wheat and milk product (butter) (clause 4 of Standard 1.2.3).

⁵ The Code defines *food for retail sale* and *fundraising event* – see clause 1 of Standard 1.2.1 and clause 2 of Standard 1.1.1 respectively. It is not for FSANZ to determine whether a particular food falls within these definitions and the above example should not be taken as such advice. As explained on page 4 of this Guide, the application and enforcement of the Code is a matter for State, Territory and New Zealand authorities. Readers should also note the disclaimer on page 4 of this Guide.

Step 4

As the shortbread biscuits are to be sold at a fundraising event, specific exemptions may apply, for example:

- Percentage labelling (characterising ingredients and components) (see paragraph 2(4)(e) of Standard 1.2.10).

Example 4 – food sold in hampers

A hamper containing packaged and unpackaged foods is sold to a shop to sell to the public. It is not intended that the shop carry out any further processing, packaging or labelling of the hamper. The shop sells the hamper to the public in the form in which they receive it. (The hamper does not contain food that has been produced with gene technology or irradiated.)

Step 1

The first step is to consider whether the food in question constitutes *food for retail sale*. For the purposes of this example only, it is assumed that the foods in the hamper are *food for retail sale* in this instance.⁶

Step 2

The food is sold in a hamper. The Code excludes *hamper* from the definition of a *package*. You would have to consider whether the outside of the hamper has to bear a label. Irrespective of any requirement to bear a label, the name and business address in Australia or New Zealand of the supplier of the hamper must be included on a label on the hamper (subclause 3(3) of Standard 1.2.2).

Step 3

Individual food items inside the hamper must meet the same requirements as if they were sold separately. All the relevant labelling information in the Code must be provided for both packaged and unpackaged items. The information must be set out on the label on the packaged items. However, if food is not in a package, other requirements in the Code apply (subclause 2(4) of Standard 1.2.1).

Check through the individual standards for exemptions from labelling requirements that may apply specifically to the individual foods within the hamper.

Example 5 – vending machines selling food for retail sale

A chocolate bar (of size dimension less than 100cm²) for sale to the public from a vending machine. The chocolate bar contains a genetically modified food (soybean) but does not contain any ingredients that have been irradiated.

⁶ See footnote 3 above.

Step 1

The first step is to consider whether the food in question constitutes *food for retail sale*. For the purposes of this example only, it is assumed that the chocolate bar is *food for retail sale* in this instance.⁷

Step 2

The second step is to consider whether, as the chocolate bar is sold from a vending machine, the chocolate bar meets any of the exemptions from general labelling requirements in subclause 2(1) of Standard 1.2.1. The exemption for food delivered packaged, and ready for consumption, at the express order of the purchaser, does not apply to food sold from a vending machine (subclause 2(3) of Standard 1.2.1).

In addition, the surface area of the chocolate bar measures less than 100 cm². For the purposes of this example only, it is assumed that the chocolate bar package is a *small package* in this instance,⁸ in which case, some specific exemptions and requirements relating to small packages may apply. Examples of specific exemptions are:

1. Ingredient labelling (subclause 2(d) of Standard 1.2.4)
2. Date marking, except where the food should not be consumed after a certain date because of health and safety reasons (subparagraph 2(1)(d)(ii) of Standard 1.2.5)
3. Nutrition information, unless a *claim requiring nutrition information* is made in relation to the food (paragraph 3(j) and clause 4 of Standard 1.2.8)
4. Percentage labelling (characterising ingredient and component labelling) (paragraph 2(4)(f) of Standard 1.2.10).

Step 3

Next, you would need to consider whether the chocolate bar must comply with specific information and labelling requirements, such as:

1. Prescribed name or, where no name is prescribed, a name or a description of the food sufficient to indicate the true nature of the food (clause 1 of Standard 1.2.2)
2. Lot identification (clause 2 of Standard 1.2.2)
3. Name and business address in Australia or New Zealand of the supplier (clause 3 of Standard 1.2.2)
4. Any mandatory warning and advisory statements; and declarations (Standard 1.2.3)
5. Directions for use and/or storage where, for reasons of public health and safety, the nature of the food is such that such directions are necessary (Standard 1.2.6)
6. Country of origin statements (Australia only) (Standard 1.2.11)
7. The statement *genetically modified* in conjunction with the name of the soybean ingredient (Standard 1.5.2)
8. Legibility requirements (Standard 1.2.9).

⁷ See footnote 3 above.

⁸ The Code defines *small package* – see clause 2 of Standard 1.1.1. As stated above, it is not for FSANZ to determine whether a particular food falls within this definition and the above example should not be taken as such advice. As explained on page 4 of this Guide, the application and enforcement of the Code is a matter for State, Territory and New Zealand authorities. Readers should also note the disclaimer on page 4 of this Guide.

As the chocolate bar is sold from a vending machine, you would need to consider the labelling requirements in the Code applying to food sold from vending machines, as discussed in section B5 of this Guide.

Part C – Foods for Catering Purposes

C1 What is food for catering purposes?

Food for catering purposes is defined for the purposes of Part 1.2 of the Code as follows:

Code Definition

Standard 1.2.1

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.

When food is provided for sale to the public it would be *food for retail sale*.

C2 How to provide information required for foods for catering purposes

Standard 1.2.1 sets out how the information required for food for catering purposes can be, or must be, provided.

The name and business address in Australia or New Zealand of the supplier of the food required under clause 3 of Standard 1.2.2, does not have to be on the label of food for catering purposes where that information is provided in documentation accompanying that food.

In certain circumstances, food for catering purposes must bear a label setting out particular information. Where a label is not required, such information can be provided in documentation accompanying the food.

In addition, where a purchaser or relevant authority has so requested, food for catering purposes must be accompanied by sufficient information in relation to that food to enable the purchaser to comply with the –

- (a) compositional requirements of this Code; and
- (b) labelling or other declaration requirements of this Code.

The methods appropriate for specific required information are detailed in the following sections.

C3 Labelling of food for catering purposes

Labelling requirements

Unless exempt (see the following section), a food for catering purposes must bear a label setting out the following information prescribed in the Code (subclause 5(1) Standard 1.2.1):

1. **Name of the food** – prescribed name or, where no name is prescribed, a name or a description of the food sufficient to indicate the true nature of the food (Standard 1.2.2)
2. **Lot identification** (Standard 1.2.2)
3. **Name and business address of the supplier of the food in Australia or New Zealand** (Standard 1.2.2). For food for catering purposes, this information may alternatively be provided in documentation accompanying the food, rather than on the label on the food (subclause 6(2) of Standard 1.2.1)
4. **Mandatory warning and advisory statements; and declarations** – if applicable (Standard 1.2.3)
5. **Date marking** – if applicable (Standard 1.2.5)
6. **Directions for use and storage** – if applicable (Standard 1.2.6)
7. **Country of origin statements** (Standard 1.2.11). The requirement does not apply in New Zealand
8. **Information for food produced using gene technology**– where relevant (Standard 1.5.2)
9. **Information for irradiated food** – where relevant (Standard 1.5.3).

Provision of additional information will also be required for some foods for catering purposes, however this information is not required to be provided on the label of the food – see section C4 below.

Other user guides

The above information requirements are discussed in general terms in Part A of this User Guide.

Many of the above labelling elements are also discussed in specific terms in user guides that cover individual standards in the Code.

Exemptions from labelling requirements

The foods for catering purposes listed in Table 6 below are exempt from bearing a label setting out all the information prescribed under subclause 5(1) of Standard 1.2.1 (as listed in the section above). For these foods, such information must be provided *in documentation accompanying the foods*.

Table 6: Foods for catering purposes that are exempt from bearing a label setting out the labelling requirements in accordance with subclause 5(1) of Standard 1.2.1

Exempt food	Reference in the Code	Notes and examples
Food not in a package	Paragraph 5(2)(a) of Standard 1.2.1 <i>Package</i> is defined in Standard 1.1.1	The following may be examples of <i>food not in a package</i> : <ul style="list-style-type: none"> • carcasses of meat • fruit or vegetables.

Exempt food	Reference in the Code	Notes and examples
Whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables	Paragraph 5(2)(b) of Standard 1.2.1 <i>Fruit and vegetables</i> is defined in Standard 2.3.1 – Fruit and Vegetables (see Glossary at the end of this User Guide).	Examples of where this exemption may apply: <ul style="list-style-type: none"> • bulk packs of fruit or vegetables sold in a mesh bags • whole or cut fruit or vegetables sold in clear plastic packaging, such as ready-to-eat vegetables, and fruit salads.
<p>An outer package where the –</p> <p>(i) label on the outer package includes the information prescribed in Standard 1.2.2; and</p> <p>(ii) food in the inner package is labelled in accordance with subclause 5(1) of Standard 1.2.1</p> <p>Or</p> <p>An outer package where the –</p> <p>(i) information prescribed in clause 3 of Standard 1.2.2 is provided in documentation accompanying the food; and</p> <p>(ii) label on the outer package includes the information prescribed in clauses 1 and 2 of Standard 1.2.2 and</p> <p>(iii) food in the inner package is labelled in accordance with subclause 5(1) of Standard 1.2.1</p>	Paragraph 5(2)(c) of Standard 1.2.1 <i>Package</i> is defined in Standard 1.1.1	<p>Where inner packages are already labelled as required under subclause 5(1), only the name of the food, lot identification and supplier details (as prescribed in Standard 1.2.2) need be provided on the outer package.</p> <p>Alternatively, only the lot identification and supplier details (as prescribed in Standard 1.2.2) need be provided on the outer package if the name and business address in Australia or New Zealand of the supplier of the food is provided in documentation accompanying the food and the inner package is already labelled as required under subclause 5(1).</p> <p>This exemption may not apply in reverse. For example, where an outer package is labelled with the information required in subclause 5(1), it may still be necessary for the inner packages to be labelled.</p>

Code Reference

Subclause 6(3) of Standard 1.2.1 provides that in the case of food for catering purposes not required to bear a label, the information required for the food (set out in subclause 5(1)) must be provided in documentation accompanying the food.

C4 Other prescribed information for food for catering purposes

In addition to the labelling requirements for food for catering purposes (as listed in subclause 5(1) of Standard 1.2.1 and outlined in section C3 above), other information prescribed in the Code will need to be provided for some foods for catering purposes. Subject to subclause 6(2), subclause 6(1) of Standard 1.2.1 allows a food business to provide this other information either on a label or *in documentation* (rather than in documentation accompanying the food for catering purposes). This information includes the following:

- ingredient information (Standard 1.2.4)
- nutrition information (Standard 1.2.8)
- labelling requirements that apply to specific food products (Chapter 2 of the Code).

Some exemptions from the requirements noted above may apply to some food for catering purposes. These exemptions are provided in the individual standards. For example, a nutrition information panel is not required for a herb or a spice (see clause 3 of Standard 1.2.8).

Other than for certain information that is required to be *provided in documentation accompanying the food* for catering purposes (as listed in section C3 above), the Code does not prescriptively dictate how the information required to be provided *in documentation* is actually provided.

Information about food for catering purposes is regularly exchanged between businesses as part of typical business practice e.g. approved supplier arrangements. Examples of information exchange between businesses include written commercial documents that are provided either electronically (for example, by email) or in hard copy format, as well as information placed on the label. The information exchange arrangements may form part of the food safety program or food control plan of the businesses concerned.

Other user guides

For further information about ingredients, refer to the FSANZ User Guide titled *Ingredient labelling of foods*.

For further information about nutrition information requirements, refer to the FSANZ User Guide titled *Nutrition Information*.

C5 Information requested by the purchaser or relevant authority

The Code requires food for catering purposes to be accompanied by sufficient information in relation to the food, if the purchaser or *relevant authority* requests this, and the information is to enable the purchaser to comply with any labelling, declaration or compositional requirements in the Code (subclause 6(4) of Standard 1.2.1). If a purchaser needs the information with every consignment in order to meet compositional, labelling or declaration requirements, then subclause 6(4) of Standard 1.2.1 provides a means by which the purchaser can request this information from the supplier.

Code Definition

Standard 1.1.1

Relevant authority means the authority responsible for the enforcement of this Code.

C6 Example

Example 6 – food for catering purposes

A baker sells five loaves of wrapped bread to a local café, who uses the bread to make sandwiches to sell to its customers at lunchtime.

Step 1

The first step is to consider whether the food in question constitutes *food for catering purposes*. For the purposes of this example only, it is assumed that the bread is *food for catering purposes* in this instance.⁹

Step 2

The bread is delivered packaged. You need to consider whether labelling requirements in certain Standards apply to the packaged bread under clause 5 of Standard 1.2.1. Examples of these requirements are:

1. Name of the food and lot identification (clauses 1 and 2 of Standard 1.2.2)
2. Any relevant mandatory warning statements, advisory statements and declarations. This would include the declaration of certain substances, such as cereals containing gluten, in the bread (clauses 2-5 of Standard 1.2.3)
3. Date marking (Standard 1.2.5)
4. Directions for use and storage (Standard 1.2.6)
5. Country of origin statements (Australia only) (Standard 1.2.11)
6. Statement that the food is genetically modified (Standard 1.5.2)
7. Statement that the food has been irradiated (Standard 1.5.3).

When considering whether those labelling requirements apply, you would also need to consider whether exemptions to those requirements apply (refer to subclause 5(2) of Standard 1.2.1).

If you decide that the packaged bread is not covered by an exemption in subclause 5(2) of Standard 1.2.1, the packaged bread must bear a label.

Step 3

Subclause 6(1) of Standard 1.2.1 allows information other than the information required under subclause 5(1) of Standard 1.2.1 above to be provided either on the label of the packaged bread or in documentation accompanying that food.

In addition, although paragraph 5(1)(a) of Standard 1.2.1 requires food for catering purposes to bear a label setting out information prescribed in Standard 1.2.2 – Food Identification Requirements, subclause 6(2) of Standard 1.2.1 allows the name and address of the supplier of the food to be provided either on the label of the packaged bread or in documentation accompanying that food.

Also, where the purchaser or a relevant authority has requested, the packaged bread must be accompanied by sufficient relevant information so as to allow the purchaser to comply with compositional; and labelling or other declaration, requirements in the Code (subclause 6(4) of Standard 1.2.1).

⁹ The Code defines *food for catering purposes* – see clause 1 of Standard 1.2.1. It is not for FSANZ to determine whether a particular food falls within this definition and the above example should not be taken as such advice. As explained on page 4 of this Guide, the application and enforcement of the Code is a matter for State, Territory and New Zealand authorities. Readers should also note the disclaimer on page 4 of this Guide.

Part D – Foods not for Retail Sale, not for Catering Purposes, and not for Intra Company Transfer

D1 What is food not for retail sale etc?

While not specifically defined, clause 3 of Standard 1.2.1 refers to *food not for retail sale etc.* as food other than *food for retail sale*, *food for catering purposes* or *food supplied as an intra company transfer*. An example of a food not for retail sale is bulk flour supplied to a manufacturer to make bread. Definitions for these terms are included in the Glossary at the end of this User Guide.

D2 Information and labelling requirements for food for not for retail sale etc

General information and labelling requirements

Unless exempt (see the following section), food that is not for retail sale, not for catering purposes and not supplied as an intra company transfer must bear a label with the information contained in Standard 1.2.2 , that is:

- the name of the food
- lot identification
- the name and business address of the *supplier* in Australia or New Zealand. However, this information is not required to be on the label on the food if it is provided in documentation that accompanies the food (subclause 3(2) of Standard 1.2.1).

Code definitions

Standard 1.1.1

Supplier means the packer, manufacturer, vendor or importer of the food in question.

Business address means a description of the location of the premises from which the business in question is being operated, but does not include a postal address.

Lot identification means information which indicates, in a clearly identifiable form, the -

- (a) premises where the food was packed or prepared; and
- (b) lot of the food in question.

Lot means a quantity of food which is prepared or packed under essentially the same conditions usually –

- (a) from a particular preparation or packing unit; and
- (b) during a particular time ordinarily not exceeding 24 hours.

Code reference

Clause 3 of Standard 1.2.1 describes the labelling requirements for food not for retail sale, not for catering purposes and not supplied as an intra company transfer, as well as instances where exemptions apply.

Exemptions for food not for retail sale etc

A food not for retail sale etc does not have to bear a label containing the information described in the section above if it meets certain conditions. These conditions are in paragraphs 3(1)(d)-(f) of Standard 1.2.1 and are:

- food other than in a *package* (see Glossary to this User Guide) (paragraph 3(1)(d));
- food in an inner package contained in an outer package where the label on the outer package includes the information prescribed in Standard 1.2.2 (paragraph 3(1)(e)); or
- food in a *transportation outer* (see Glossary to this User Guide) where the information that would otherwise be required is clearly discernible through the transportation outer on the labels on the packages inside (paragraph 3(1)(f)).

D3 Information that can be requested by the purchaser or relevant authority

A purchaser or relevant authority may request information to enable the purchaser of a food not for retail sale etc to comply with the compositional, labelling or other declaration requirements of the Code. Sufficient information to achieve that aim must accompany the food not for retail sale etc. The information must be provided in writing where this is requested by the purchaser or relevant authority.

For example, a company makes a loaf of bread for retail sale from a bread mix that they purchase from a supplier. The company needs to label the bread with information about the ingredients of the bread mix. The company can request the relevant information from the supplier of the bread mix in order to be able to comply with the ingredient labelling requirements of the Code.

Code reference

Subclause 4(1) of Standard 1.2.1 provides that where the purchaser or relevant authority requests, a food not for retail sale etc must be accompanied with sufficient information to enable the purchaser to comply with compositional, labelling or declaration requirements of the Code.

Subclause 4(2) of Standard 1.2.1 requires that such information be supplied in writing where this is requested by the purchaser or relevant authority.

D4 Example

A farmer is selling potatoes from his farm to a manufacturing company who will make them into potato crisps. The potatoes are packed into packing boxes.

Step 1

The first step is to consider whether the food in question constitutes *food not for retail sale etc.* For the purposes of this example only, it is assumed that the potatoes are *food not for retail sale etc* in this instance.¹⁰

Step 2

The second step is to consider how clauses 3 and 4 of Standard 1.2.1 apply to the potatoes. The potatoes are in packing boxes. You will need to consider whether the food must be labelled with the information set out in subclause 3(1) of Standard 1.2.1. For example:

1. Name of the food (clause 1 of Standard 1.2.2)
2. Lot identification (clause 2 of Standard 1.2.2)
3. The name and business address of the supplier of the potatoes (clause 3 of Standard 1.2.2)

If those requirements apply, you will also need to consider how such information must be provided.

If requested by the manufacturing company or relevant authority, the potatoes must also be accompanied by sufficient information, in writing if requested, to enable the purchaser to comply with compositional and labelling requirements of the Code (clause 4 of Standard 1.2.1).

¹⁰ It is not for FSANZ to determine whether a particular food constitutes *food not for retail sale etc* and the above example should not be taken as such advice. As explained on page 4 of this Guide, the application and enforcement of the Code is a matter for State, Territory and New Zealand authorities. Readers should also note the disclaimer on page 4 of this Guide.

Part E – Food in Small Packages

E1 What is a small package?

Small package is defined in Standard 1.1.1 as a *package with a surface area of less than 100 cm²*. Note that the definition refers to the *surface area* of the package of food. Therefore in determining whether a package is a *small package* you would need to consider what the surface area of the package in question is.

Examples of food in small packages could include small, individual confectionery items sold out of self-serve dispensing units, single serve cheeses and other single serve dairy products, sauces, condiments, beverage whiteners, sugars, and sweeteners.

E2 Specific exemptions from labelling requirements for small packages

For all food in small packages there are specific exemptions from some information and labelling requirements. For example:

- lot identification of food, where the bulk package and bulk container in which the food is stored or displayed for sale includes lot identification (subclause 2(b) of Standard 1.2.2)
- ingredient labelling (subclause 2(d) of Standard 1.2.4)
- date marking, except where the food should not be consumed after a certain date because of health or safety reasons (paragraph 2(1)(d)(ii) of Standard 1.2.5)
- nutrition information panels, where no nutrition content claim or health claim is made in relation to the food (paragraph 3(j) and subclause 4(2) of Standard 1.2.8)
- percentage labelling (characterising ingredient and component labelling) (paragraph 2(4)(f) of Standard 1.2.10).

Other user guides

See Part A of this User Guide for more information about these labelling requirements.

For further information about the requirements for when *claims requiring nutrition information* are made about a food in a small package, refer to the FSANZ User Guide Nutrition Information.

E3 Information and Labelling Requirements

For most small packages, certain information will still need to be provided in relation to food in small packages, for example, the name of the food as required under Standard 1.2.2 and specific requirements for nutrition information when a *claim requiring nutrition information* is made in relation to a food in a small package (clause 8 of Standard 1.2.8).

How and when this information needs to be provided depends on the purpose of the food, that is, whether the food is designated for retail sale, catering purposes, or supplied for intra company transfer. Whether there are any general exemptions from the requirement for the food to bear a label also needs to be considered.

Other user guides

For further information on the application of labelling and information requirements refer to Part A of this User Guide.

E4 Example

A shop sells a sauce in a package with a surface area that measures 95 cm². The sauce is a liquid. The packaged sauce is displayed for retail sale on a shelf for selection by consumers. The sauce does not have any special storage or preparation requirements and there is no date after which the sauce should not be consumed due to health or safety reasons. The shelf life of the sauce is one year. The sauce carries a nutrition content claim indicating that it is reduced in sugar.

Step 1

The first step is to consider whether the food in question constitutes a *food for retail sale*. For the purposes of this example only, it is assumed that the sauce is *food for retail sale* in this instance.¹¹

Step 2

The second step is to consider whether the sauce must bear a label setting out all the information prescribed in the Code or whether any of the exemptions in subclause 2(1) of Standard 1.2.1 apply.

In addition, the surface area of the sauce package measures less than 100 cm². You need to consider whether any other specific exemptions and requirements apply in relation to the package size.

Step 3

Check through the individual standards in the Code for specific labelling or information requirements and exemptions. Examples of specific labelling or information requirements and exemptions include:

1. A name or a description of the sauce (subclause 1(1) of Standard 1.2.2)
2. Lot identification (the sauce is not displayed in a bulk package which contains this information) (clause 2 of Standard 1.2.2)
3. Name and business address of the supplier of the sauce (clause 3 of Standard 1.2.2)
4. Mandatory warnings, advisory statements and declarations, if applicable to the sauce (Standard 1.2.3)
5. If a claim requiring nutrition information is made about the sauce - the average quantity of sauce per serving (expressed in millilitres); and if a claim requiring nutrition information is made about carbohydrate, dietary fibre, sugars or other carbohydrate on the sauce - the sugars, energy, carbohydrate and dietary fibre as the case may be (clauses 8 and 8A of Standard 1.2.8)
6. Country of origin labelling (Australia only) (Standard 1.2.11)
7. Statement of ingredients (subclause 2(d) of Standard 1.2.4)

¹¹ See footnote 3 above.

8. Date marking (paragraph 2(1)(d)(ii) of Standard 1.2.5)
9. Directions for use and storage (Standard 1.2.6)
10. Nutrition information panel (subclause 3(j) of Standard 1.2.8)
11. Percentage labelling (characterising ingredient/s and component/s) (paragraph 2(4)(f) of Standard 1.2.10).

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

Glossary

Definitions that apply to the Code as a whole are provided in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions. Some of these will be relevant to the food labelling and information requirements in the Code. Definitions included in Standard 1.2.1 – Application of Labelling and Other Information Requirements are for the purposes of Part 1.2 of the Code.

Assisted service display cabinet

Assisted service display cabinet is defined in Standard 1.2.1 and means an enclosed or semi-enclosed display cabinet which requires a person to serve the food as requested by the purchaser.

Average quantity

Average quantity is defined in Standard 1.1.1, as follows:

average quantity in relation to a substance in a food is the quantity determined from one or more of the following –

- (a) the manufacturer's analysis of the food; or
 - (b) calculation from the actual or average quantity of nutrients in the ingredients used; or
 - (c) calculation from generally accepted data;
- which best represents the quantity of the substance that the food contains, allowing for seasonal variability and other known factors that could cause actual values to vary.

Business address

Business address is defined in Standard 1.1.1 and means a description of the location of the premises from which the business in question is being operated, but does not include a postal address.

Claim requiring nutrition information

This term is defined in clause 4 of Standard 1.2.8 and means a nutrition content claim or a health claim but does not include a declaration that is required by the Act, or an endorsement (*Act* is defined in Standard 1.1.1 and *endorsement* is defined in Standard 1.2.7).

Fruit and vegetables

The term *fruit and vegetables* is defined in Standard 2.3.1 – Fruit and Vegetables for the purposes of the Code, as fruit, vegetables, nuts, spices, herbs, fungi, legumes and seeds.

Food for retail sale

Food for retail sale is defined in Standard 1.2.1 for the purposes of Part 1.2 of the Code, and 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

Food for catering purposes is defined in Standard 1.2.1 for the purposes of Part 1.2 of the Code. 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.

Fund raising events

Fund raising events is defined in Standard 1.1.1 and means events that raise funds solely for community or charitable causes and not for personal financial gain.

Hamper

Hamper is defined in Standard 1.1.1 and means a decorative basket, box or receptacle containing any number of separately identifiable food items.

Intra company transfer

An intra company transfer is defined in Standard 1.2.1 for the purposes of Part 1.2 of the Code, and means a transfer of food between elements of a single company, between subsidiaries of a parent company or between subsidiaries of a parent company and the parent company.

Label

Label is defined in Standard 1.1.1 and means any tag, brand, mark or statement in writing or any representation or design or descriptive matter on or attached to or used in connection with or accompanying any food or package.

Lot identification

Lot identification is defined in Standard 1.1.1 and means information which indicates, in a clearly identifiable form, the –

- (a) premises where the food was packed or prepared; and
- (b) lot of the food in question.

Lot

Lot is referred to in the definition of *lot identification* and is defined in Standard 1.1.1. *Lot* means a quantity of food which is prepared or packed under essentially the same conditions usually –

- (a) from a particular preparation or packing unit; and
- (b) during a particular time ordinarily not exceeding 24 hours.

Nutrition content claim

This term is defined in Standard 1.2.7. Nutrition content claim means a claim about –

- (a) the presence or absence of –
 - (i) a biologically active substance; or
 - (ii) dietary fibre; or
 - (iii) energy; or
 - (iv) minerals; or
 - (v) potassium; or
 - (vi) protein; or
 - (vii) carbohydrate; or
 - (viii) fat; or
 - (ix) the components of any one of protein, carbohydrate or fat; or
 - (x) salt; or
 - (xi) sodium; or
 - (xii) vitamins; or

- (b) glycaemic index or glycaemic load;

that does not refer to the presence or absence of alcohol, and is not a health claim.

Package

Package is defined in Standard 1.1.1 and means any container or wrapper in or by which food intended for sale is wholly or partly encased, covered, enclosed, contained or packaged and, in the case of food carried or sold or intended to be carried and sold in more than one package, includes every such package, but does not include –

- (a) bulk cargo containers; or
- (b) pallet overwraps; or
- (c) crates and packages which do not obscure labels on the food; or
- (d) transportation vehicles; or
- (e) a vending machine; or
- (f) a hamper; or
- (g) food served on a covered plate, cup, tray or other food container in prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1.

Bulk cargo container

This term is referred to in the definition of *package* and is defined in Standard 1.1.1 to mean an article of transport equipment, being a lift van, movable tank, or other similar structure –

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use; and
- (b) specifically designed to facilitate the carriage of goods by one or more modes of transport, without immediate repacking; and
- (c) fitted with devices permitting its ready handling and its transfer from one mode of transport to another; and
- (d) so designed as to be easy to fill and empty; and
- (e) having an internal volume of one cubic metre or more; and
- (f) includes the normal accessories and equipment of the container, when imported with the container and used exclusively with it; and
- (g) shipping container or aircraft cargo container;

but does not include –

- (h) any vehicle, or any ordinary packing case, crate, box, or other similar article used for packing.

Prescribed name

Prescribed name is defined in Standard 1.1.1 and *means a name by which a food is defined or described in a Standard, and is declared in this Code to be a prescribed name.*

Relevant authority

Relevant authority is defined in Standard 1.1.1 and *means the authority responsible for the enforcement of this Code.*

Small package

Small package is defined in Standard 1.1.1 and means a package with a surface area of less than 100 cm².

Supplier

Supplier is defined in Standard 1.1.1 to mean the packer, manufacturer, vendor or importer of the food in question.

Transportation Outer

Transportation outer is defined in Standard 1.1.1 and means a container or wrapper which encases packaged or unpackaged foods for the purpose of transportation and distribution; and which is removed before the food is used or offered for retail sale, or is not taken away by the purchaser of the food.

Warning statement

Warning statement is defined in Standard 1.1.1 and means a statement required to be expressed in the text as so prescribed in this Code, in –

- (a) clause 3 of Standard 1.2.3; and
- (b) clause 3 of Standard 2.6.3; and
- (c) subclauses 14(1), 14(3) and 26(1) of Standard 2.9.1; and
- (d) paragraph 5(3)(c) and subclause 6(2) of Standard 2.9.2; and
- (e) subclauses 3(3) and 3(4) of Standard 2.9.4; and
- (f) subclause 10(4) of Standard 2.9.5.



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Legibility Requirements for Food Labels

User guide

to

Standard 1.2.9 – Legibility Requirements

December 2013

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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 and 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 1.2.9 – Legibility Requirements. It also seeks to assist food businesses to make the information that must be included on a food label as easy to read as possible.

1. What are the requirements of Standard 1.2.9?

Standard 1.2.9 requires that every word, statement, expression or design that is required to be on a food label (required information) must be written or set out:

- legibly
- prominently, so as to provide a distinct contrast to the background
- in English.

This otherwise non-prescriptive approach to legibility requirements allows flexibility in how a label is presented, as long as the required information is clear and readily accessible to the consumer.

Standard 1.2.9 applies to both packaged and unpackaged foods. The definition of 'label' in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions includes information that is 'on or attached to or used in connection with or accompanying any food or package'. This means that where certain required information is 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 would apply. An example of this situation is where information in relation to unpackaged foods must be provided.

Additional legibility requirements apply to warning statements – see section 3 – *Additional requirements* below.

1.1 What makes required information legible?

Design and printing issues

In order to be legible, required information on food labels should be:

Indelible – Printing should be such that it cannot be removed or erased under normal conditions or use or storage. Printing that fades, runs, or is rubbed off is not legible or prominent.

Distinct – Decorations and embellishments such as logos should not interfere with the legibility of the words on the label. Avoid text printed on complex or pictorial or otherwise multicoloured backgrounds as it is unlikely to be adequately legible.

Easy to read – Statements in sentence or title case are usually easier to read than statements in upper case or in mixed case.

Example

This is Title Case.

This is sentence case.

thIS IS mIXeD CasE.

THIS IS UPPER CASE

In most cases, type size is not prescribed in the Standard. However, where a warning statement is included on the label, the type size of the warning statement must not be smaller than the minimum size prescribed – see section 3 – *Additional requirements* below.

Many consumers, including the elderly, find larger type easier to read. Given the ageing population, a larger type size may be more appropriate.

1.2 What makes required information prominent?

In order to be prominent, required information should stand out so consumers can notice it easily.

To make sure the required information on food labels is prominent, the following should be considered:

- the position on the label
- how to make it noticeable.

The position on the label

The position of required information contained, written, or set out in a label is generally not prescribed in the Code. However, there are some foods where the position of required information is specified e.g. fermented comminuted manufactured meat. Where the position of required information is not prescribed, food businesses may wish to consider placing certain required information in close proximity to related information.

Example

Place the 'alcohol by volume' statement near the standard drinks information on an alcoholic beverage label, or place the ingredient list near any required warning or advisory statement or declaration on a food label.

Code reference

Standard 2.2.1 – Meat and Meat Products requires that if a trade name is included on the label of fermented comminuted processed meat or fermented comminuted manufactured meat, certain prescribed wording must be provided in association with the trade name.

Other legislation may also impose conditions on the positioning or placement of certain information.

Example

Trade measurement legislation in some states and territories in Australia currently prescribes the positioning of some information on a food label.

This legislation is generally available in hard copy from government bookshops, or may be downloaded from the internet (either from the relevant state/territory government website or a general legal website such as Austlii at www.austlii.edu.au).

Making required information prominent

You can make the most important information more prominent by:

- highlighting it using contrasting colours
- using borders
- using larger print size or other distinctive print
- using line spacing, type justification and text segmenting.

Example

Some manufacturers use bold face type in the ingredient list for ingredients that may cause allergies in susceptible people to make these ingredients more prominent.

Certain words or statements on food labels can be highlighted to make them more prominent, provided that doing so does not constitute misleading or deceptive conduct. If regulators were to assess whether such conduct was misleading or deceptive, they would take the entire label into consideration.

1.3 Contrast to the background

The Code requires the requisite information on a food label to be set out legibly and prominently so it is in distinct contrast to the background. However, the Code does not specifically prescribe colour contrast because there are other ways, such as embossing, to achieve a distinct contrast.

Example

A uniform colour contrasting strongly with a different coloured uniform background stands out, e.g. all black type on a yellow or beige background.

While considering presenting the required information on a label legibly and prominently so it is in distinct contrast to the background, you should remember that some people are colour-blind and cannot distinguish between certain colours. People with the most common form of colour blindness find it difficult to distinguish between red and green; others may find it difficult to distinguish blue from green.

1.4 External factors affecting legibility and prominence

Apart from the label design, there are external factors that may affect legibility and prominence. These include:

- the conditions where the food is sold
- the suitability of lighting
- the position of the food on the shelves.

All these factors may affect how easily a consumer can read food labels. They make it difficult to apply general rules about how to make labels legible in all situations.

2. What languages be used?

The Code requires all prescribed labelling information to be in English. In addition, the Code allows information to be presented in other languages on a food package label, or in association with a display of food, so long as the information does not negate or contradict the required information on the label in English.

3. Additional requirements

3.1 Warning statements generally

The words for each warning statement are prescribed and **must** be written using the text and size of type required in the Code.

For most packages, each word, statement, expression or design prescribed to be contained, written or set out in a warning statement on a label must be in a size of type of at least 3 mm in size when measured from the base to the top of the letter or numeral. Separate requirements apply to small packages (see section 3.2 – *Warning statements on small packages* below.)

You may choose the type and style of lettering of a warning statement, but you should ensure that the statement is legible and prominent such as to afford a distinct contrast to the background.

Other user guides

For further information on the requirements for warning statements, see the FSANZ User Guide on *Warning and Advisory Statements and Declarations*.

Code reference

Standard 1.1.1 defines warning statements and lists where they are found throughout the Code.

Clause 1 of Standard 1.2.9 defines 'size of type'.

3.2 Warning statements on small packages

A small package is a package with a surface area of less than 100 cm².

Because of the small size of small packages, the Code permits warning statements on the label of a small package to be written in a minimum size of type of 1.5 mm.

Code reference

Clause 2 of Standard 1.1.1 defines small packages.

Subclause 3(b) of Standard 1.2.9 specifies minimum size of type for warning statements on small packages.

3.3 Advisory statements and mandatory declarations

The Code also requires information about certain foods and substances to be provided in the form of mandatory declarations or advisory statements. The Code does not prescribe the exact wording or a minimum size of type for these statements but where mandatory declarations or advisory statements are required, they comply with the general legibility requirements of Standard 1.2.9.

Other user guides

For further information on the requirements for mandatory advisory statements and declarations, see the FSANZ User Guide on *Warning and Advisory Statements and Declarations*

Code reference

Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations sets out the provisions regarding warning and advisory statements and declarations. Provisions relating to mandatory warnings, advisory statements and declarations are also set out in other standards throughout the Code.

3.4 Country of origin labelling (Australia only)

There are type size requirements in Standard 1.2.11 – Country of Origin Labelling (applicable in Australia only) for country of origin labelling.

If a statement required under Standard 1.2.11 is provided other than on a package (e.g. on a sign adjacent to unpackaged foods) the size of type of the statement on the label in connection with the display of food must be at least 9 mm.

If the unpackaged food is in a refrigerated assisted service display cabinet, the size of type on the label in connection with the display of food must be at least 5 mm.

Code Reference

Standard 1.2.11 sets out the requirements for country of origin labelling, including type size.

Standard 1.2.1 defines an ***Assisted service display cabinet*** as an enclosed or semi-enclosed display cabinet which requires a person to serve the food as requested by the purchaser.

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

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Consumer protection legislation information

Australian Competition and Consumer Commission (ACCC)

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Commerce Commission of New Zealand

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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



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Warning and Advisory Statements and Declarations

User Guide

to

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

January 2014

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Background

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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.

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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

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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: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Ingredient Labelling of Foods

User Guide

to

Standard 1.2.4 – Labelling of Ingredients

December 2013

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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 and the Commonwealth Department of Agriculture for imported food; and 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 this user guide

The purpose of this User Guide is to provide an overview for food businesses and other users on Standard 1.2.4 – Labelling of Ingredients and the ingredient labelling requirements for foods. This includes when ingredient labelling is required and the way in which it must be presented. The Guide also sets out specific Code requirements for labelling and naming ingredients and compound ingredients.

Attachment 1 provides guidance on how to calculate the weight of added water in a food.

NOTE: Standard 2.9.5 – Food for Special Medical Purposes requires that, in terms of labelling of ingredients, a label on a package of food for special medical purposes must comply either with Standard 1.2.4 or alternative legislation in the European Union or United States of America, as prescribed in clause 12 of Standard 2.9.5. This user guide provides an overview of Standard 1.2.4 only, and not the alternative legislation.

1 Basics of ingredient labelling

1.1 What is an ingredient?

An ingredient means any substance, including a food additive, used in the preparation, manufacture or handling of a food. Essentially, any substance used to make a food must be listed in the statement of ingredients. There are a few exceptions to this general rule, which are listed later in this guide (see section 3.2 – *Exempt Ingredients* below).

The statement of ingredients should not be confused with the declaration of ‘characterising’ ingredients. These are key ingredients for a particular food and greater detail about their content is required in the form of percentage labelling (see section 7 – *Percentage labelling and characterising ingredients* below).

1.2 Which foods must have a statement of ingredients on the label?

When a statement of ingredients is required and how it must be provided, depends on the purpose of the food, i.e., whether or not the food is designated for retail sale or for catering purposes, and whether any exemptions apply from the requirement for the food to bear a label or a statement of ingredients.

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.

Food for retail sale

All food for retail sale must include a statement of ingredients (sometimes referred to as a list of ingredients) on the label, unless the food is exempt from having to bear a label setting out all the information prescribed in the Code under subclause 2(1) of Standard 1.2.1 or is exempt from having to include a statement of ingredients under clause 2 of Standard 1.2.4 (see section 3.1 – *Exempt Foods* for further information).

Food for catering purposes

Unless an exemption is met in clause 2 of Standard 1.2.4, if you sell a food for catering purposes, you must provide a statement of ingredients either on a label or in documentation (see subclause 6(1) of Standard 1.2.1). If you choose to provide the information in documentation, it can be provided in a number of ways.

In addition, if specifically requested by the purchaser or relevant authority, the food for catering purposes must be accompanied by enough information for the purchaser to comply with the compositional, labelling and other declaration requirements of the Code (see subclause 6(4) of Standard 1.2.1).

Food not for retail sale etc

If you provide a food that is not for retail sale, not for catering purposes or not supplied for intra company transfer, the food must be accompanied with sufficient information to enable the purchaser to comply with the compositional, labelling and other declaration requirements in the Code, where a purchaser or relevant authority has so requested. Where requested, this information must be in writing (see clause 4 of Standard 1.2.1).

Code reference

Subclause 2(1) of Standard 1.2.1 sets out what foods for retail sale are exempt from bearing a label with all the prescribed information in the Code.

Subclause 6(1) of Standard 1.2.1 allows certain information that must be provided for foods for catering purposes to be provided in documentation.

Clause 4 of Standard 1.2.1 sets out information requirements for food not for retail sale etc.

Other user guides

For further guidance on the exemptions from labelling, see the FSANZ User Guide *Overview and Application of Food Labelling and Information Requirements*.

1.3 Where should the statement of ingredients be placed?

The position of the statement of ingredients on a label is not mandated, however, it must be prominent and legible, in accordance with Standard 1.2.9 – Legibility Requirements.

It is not mandatory for the statement of ingredients to have a heading, although a heading may make it more prominent. 'Ingredients', 'Made from', 'Consists of' or 'Contains' or similar words or phrases could be used as a heading.

Code reference

Clause 2 of Standard 1.2.9 states that each word, statement, expression or design prescribed to be contained, written or set out in a label (this would include the statement of ingredients), be written in English, prominent and legible.

Other user guides

For further guidance on legibility requirements, see the FSANZ User Guide on *Legibility Requirements for Food Labels*.

1.4 How should ingredients be declared in the statement of ingredients?

All ingredients in the food must be declared in the statement of ingredients for the food using one of the following:

1. **The common name of the ingredient**
2. **A name that describes the true nature of the ingredient**
3. **A generic name for the ingredient** (where applicable – see section 2 – *Use of Generic Names* below for more detail)

The names of ingredients should be accurate and sufficiently detailed to ensure that they are not false, misleading or deceptive, or likely to mislead or deceive.

Example

Orange juice made from reconstituted orange juice should be declared as 'reconstituted orange juice' or as 'water, orange juice concentrate'. It should not be declared as 'orange juice' as this is potentially misleading.

Code reference

Clause 4 of Standard 1.2.4 includes the requirements for labelling and naming of ingredients.

1.5 GM ingredients

The presence of a genetically modified ingredient must also be declared. This declaration may be made as part of the statement of ingredients.

Code reference

Standard 1.5.2 – Food Produced Using Gene Technology defines 'genetically modified food', 'novel DNA and/or novel protein' and 'altered characteristics' and lists labelling requirements for food produced using gene technology.

1.6 Irradiated ingredients

The presence of an irradiated ingredient must also be declared. This declaration may be made as part of the statement of ingredients.

Code reference

Standard 1.5.3 – Irradiation of Food provides further details of the labelling requirements for irradiated foods and food ingredients.

1.7 In what order should I list ingredients?

Required order

Unless covered by an exemption, ingredients must be listed in descending order of ingoing weight. In other words, the statement of ingredients must begin with the ingredient in the largest quantity and end with the ingredient in the smallest quantity, based upon the ingoing weight of the ingredients.

Exceptions to the required order

The exceptions to this requirement are as follows:

1. **Where a dehydrated or concentrated ingredient is reconstituted during preparation, manufacture or handling of the food**

In this case, the position of that ingredient in the statement of ingredients may be determined by the weight of the ingredient before concentration or dehydration.

Example

If dehydrated peas were to be used in a vegetable pie filling, the manufacturer may use the weight of the original peas, i.e. before they were dehydrated, to determine the order in the statement of ingredients.

This exception is optional and allows a manufacturer to declare the peas in the pie as either 'reconstituted peas' or as 'dehydrated peas, water'.

The standard does not require each individual ingredient that is reconstituted to be identified throughout the statement of ingredients. For example the statement of ingredients may be headed by the words 'Ingredients when reconstituted'.

2. **Where any dehydrated or concentrated food is intended to be reconstituted in accordance with directions**

In this case, you may list the ingredients in descending order of proportion by weight in the reconstituted product, provided it is clear that you are declaring the ingredients in order of their weight when reconstituted.

The statement of ingredients may be headed, for example, by the words 'Ingredients when reconstituted' to make it clear to consumers that the ingredients are being declared in order of their weight when reconstituted.

Example

If you sell a dried soup mix is sold to consumers to be rehydrated before consumption, then the statement of ingredients can be based upon the weights of the ingredients when rehydrated according to the directions. The statement of ingredients could be headed to indicate accordingly, for example, 'Ingredients when reconstituted'.

3. For added water or a volatile ingredient

Added water or a volatile ingredient must be declared in the statement of ingredients immediately following the ingredient with the closest higher ingoing weight but shall be calculated in accordance with the ingoing weight of the added water or volatile ingredient minus the amount of that ingredient that is removed and/or used for reconstitution of dehydrated or concentrated ingredients during preparation, manufacture or handling of the food.

Consequently, if the added water or volatile ingredient has been partially removed during manufacture, preparation or handling, then its position in the statement of ingredients should reflect the amount remaining in the final food rather than the ingoing amount (see section 6.1 – *Water and volatile ingredients* below for more detail).

4. Compound ingredients

A compound ingredient is an ingredient of a food that is itself made from two or more ingredients, e.g. spaghetti, which is made from flour, egg and water. Compound ingredients can be declared in two possible ways (see section 5 – *Compound Ingredients* below).

Code reference

Clause 1 states the meaning of *compound ingredient*.

Clause 5 of Standard 1.2.4 specifies the order in which ingredients should appear in the statement of ingredients, and lists exemptions.

Clause 6 provides for the declaration of compound ingredients.

2 Use of generic names

Generic names as set out in Standard 1.2.4 are permitted to allow manufacturers flexibility in declaring the ingredients in their foods. The use of generic names is not compulsory. They may be used instead of the common name of an ingredient or a name that describes the true nature of the ingredient.

2.1 Permitted generic names

Generic names permitted under the standard for ingredients are as follows:

cereals	fruit	nuts
cheese	gum base	poultry meat
cocoa butter	herbs	spices
crystallised fruit	meat	starch
fats or oils	milk protein	sugar
fish	milk solids	vegetables

Example

A statement of ingredients for a food containing **apple**, **pear** and **peach** (when added as separate ingredients to the food) may be written as: 'wheat flour, soybean oil, **fruit**, sugar, salt'.

Food businesses may choose to elaborate by also listing the individual fruits after the generic name but this is not mandatory, eg: 'wheat flour, soybean oil, **fruit (apple, pear, peach)**, sugar, salt'.

Suitable words may be added to further characterise the ingredient, eg: cheese **powder**, poultry meat **fillets**, **dried** vegetables.

2.2 Generic names with special conditions

There are special conditions that apply when using the following generic names:

- **Cereals**
 - where the cereal is wheat, rye, barley, oats, or spelt or their hybridised strains, the specific name of the cereal must be declared.
- **Fats or oils**
 - must be qualified as to whether the source is animal or vegetable
 - where the source of vegetable oil is peanut, soy bean or sesame, the specific source name must be declared
 - the source of animal fats or oils must be specifically declared for dairy products, including ice cream
 - must not be used for Diacylglycerol oil.
- **Fish**
 - if crustacea, the specific name of the crustacea must be declared.

- **Milk solids**
 - may be used to describe milk powder, skim milk powder, dried milk products standardised in the Code and any two or more of the following ingredients: whey, whey powder, whey proteins, lactose, caseinates, milk proteins and milk fat.
- **Nuts**
 - the specific name of the nut must be declared.
- **Starch**
 - where the source of the starch is wheat, rye, barley, oats, or spelt, or their hybridised strains, the specific name of the cereal must be declared
 - the name 'starch' may be used for any unmodified starch or any starch that has been modified by either physical means or enzymes.
- **Sugar**
 - may be used to describe: white sugar, white refined sugar, caster sugar, castor sugar, loaf sugar, cube sugar, icing sugar, coffee sugar, coffee crystals, or raw sugar
 - to avoid confusion, the word 'sugars' must not be used in a statement of ingredients because separate identification of individual sugars (that is, specific mono- and disaccharides), such as lactose, fructose etc., is required.

Code reference

The table to clause 4 of Standard 1.2.4 lists permitted generic names for ingredients and their conditions of use.

2.3 Generic names in relation to percentage labelling

The use of generic names may be particularly useful in relation to percentage labelling where the fruit/s may be the characterising ingredient of the food and therefore require quantification. For example, if the name of the product with a statement of ingredients were 'pear and peach slice' the proportion of pear and peach in the slice would require quantification.

See also section 7 – *Percentage Labelling and Characterising Ingredients* below for more detail.

Code reference

Standard 1.2.10 – Characterising Ingredients and Components of Food includes the labelling requirements for percentage labelling.

Other user guides

For more information, see the FSANZ user guide on *Percentage Labelling of Foods*. This guide explains Standard 1.2.10 – Characterising Ingredients and Components of Food.

3 Exemptions from ingredient labelling

3.1 Exempt foods

The following packaged foods are exempt from having a statement of ingredients on the label. Note that these exemptions do not override the requirements to always declare the presence of certain substances, such as allergens – see section 4 – *Mandatory Declarations* below for more detail. Although the foods below are exempt from having a statement of ingredients, you may choose to list the ingredients of these foods on labels. In addition to the exemptions listed below, the foods for retail sale that are exempt from the requirement to carry a label are also exempt from providing a statement of ingredients (refer to section 1.2 – *Which foods must have a statement of ingredients on the label*).

Code reference

Clause 2 of Standard 1.2.4 lists those packaged foods that need not carry a statement of ingredients.

Clause 2 of Standard 1.2.1 lists foods for retail sale that are exempt from the requirement to bear a label setting out all the information prescribed in the Code.

Other user guides

For further information see the user guide titled *Overview and Application of Food Labelling and Information Requirements*.

Where the food is labelled with the name of the food, and the statement of ingredients would be the same as the name of the food

Note that this exemption does not apply if the food contains ingredients other than those in the name.

Examples

A statement of ingredients in the following cases are not required as would be unnecessary duplication:

1. A product which is 100% orange juice
2. A product which is 100% sugar
3. 'Apple and pear juice'

However, if the apple and pear juice in example 3 contained sulphur dioxide as a preservative then the name 'apple and pear juice' obviously would not be sufficient to describe all of the ingredients. In this case, the statement of ingredients must be included on the label and must include sulphur dioxide as well as the apple and pear juice.

Where the food is water presented in packaged form as standardised in Standard 2.6.2

Water presented in packaged form is included in Standard 2.6.2 – Non-alcoholic Beverages and Brewed Soft Drinks. Water presented in packaged form does not need to include a statement of ingredients.

Where the food is an alcoholic beverage standardised in Standards 2.7.2 to Standard 2.7.5 of the Code (including beer, wine, fruit wine, vegetable wine and spirits)

However, there are comprehensive requirements in the Code for declaring the alcohol content of beverages and food containing a certain amount of alcohol – see reference below.

A statement of ingredients must be included on the label on the package of an alcoholic beverage which does not fall within Standards 2.7.2 to 2.7.5 of the Code.

Example

Wine-based drinks with less than 70% wine and ready-to-drink spirits/mixer products with less than 37% alcohol by volume are not standardised in Standards 2.7.2 to 2.7.5 of the Code and must comply with all of the ingredient labelling requirements.

Code reference

Clause 2 of Standard 2.7.1 – Labelling of Alcoholic Beverages and Food Containing Alcohol sets out requirements for declarations of alcohol by volume.

Where the food is contained in a small package — a small package is a package with a surface area of less than 100cm²

Note that this exemption does not override the requirement to declare allergens that would otherwise be listed in the statement of ingredients of larger packages.

Example

A small package of chewing gum or package of confectionery.

Code reference

Clause 2 of Standard 1.1.1 defines small packages.

3.2 Exempt ingredients

The following ingredients need not be declared in a statement of ingredients.

Code reference

Clause 3 of Standard 1.2.4 lists those ingredients that need not be declared in the statement of ingredients.

An ingredient of a flavouring

You must declare flavourings (see section 6.5 – *Flavourings*) but not the substances used to make the flavouring, i.e. the ingredients in the flavouring.

Code reference

'Flavouring' means a flavouring as defined in Schedule 5 of Standard 1.3.1 – Food Additives.

A volatile ingredient

A volatile ingredient such as alcohol or water, that is completely removed during manufacture of the food need not be declared.

Added water

Added water need not be declared:

- where it is added solely to reconstitute dehydrated or concentrated ingredients; or
- where it forms part of broth, brine or syrup that is declared in the statement of ingredients or is part of the name of the food; or
- where it constitutes less than 5% of the final food (see Attachment 1 – *Calculating the weight of added water or volatile ingredients in a food*).

If you do not list added water in the statement of ingredients on the basis that the water is added solely to reconstitute dehydrated or concentrated ingredients, then the placement of the reconstituted ingredient in the statement of ingredients must be based on its reconstituted weight.

Similarly for brine, broth and syrup, you need not to list the added water in the statement of ingredients if the water forms part of the broth, brine or syrup which is declared in the statement of ingredients or is part of the name of the food. However, the broth, brine or syrup must be declared on the basis of the weight of the broth, brine or syrup that has been used as an ingredient.

Code reference

Paragraph 3(c) of Standard 1.2.4 sets out when added water does not have to be listed in the statement of ingredients.

Subclause 5(2) of Standard 1.2.4 sets out how added water must be declared in the statement of ingredients.

Paragraph 5(1)(a) of Standard 1.2.4 sets out the requirements for declaring dehydrated or concentrated ingredients that are reconstituted during preparation, manufacture or handling of the food.

Paragraph 3(c)(ii) and subclause 5(1) of Standard 1.2.4 set out the requirements for declaring broth, brine or syrup when added water is not listed in the statement of ingredients on the basis that the water forms part of the broth, brine or syrup.

Substances used as processing aids in accordance with Standard 1.3.3 – Processing

Aids

Processing aids are generally exempted from declaration on the label of a food. This exemption is subject to overriding requirements elsewhere in the Code (see section 4 – *Mandatory Declarations* below).

Code reference

Standard 1.3.3 – Processing Aids lists permitted processing aids.

4 Mandatory statements and declarations

Standard 1.5.2 – Food Produced Using Gene Technology lists labelling requirements for food produced using gene technology. If a genetically modified processing aid is used and novel DNA and/or novel protein from that processing aid are present in the final food then the processing aid and its GM status generally must be declared. You may make this declaration as part of the statement of ingredients.

Other user guides

For more information on the declaration of genetically modified foods see Standard 1.5.2 – *Food Produced Using Gene Technology*

Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations sets out mandatory advisory and warning statements; and mandatory declarations, which must be made in relation to certain foods and foods containing certain substances.

The exemptions listed above only relate to ingredient labelling and do not apply to requirements for mandatory advisory and warning statements; and mandatory declarations under Standard 1.2.3. For reasons of public health and safety, and for consumer information, you must always comply with Standard 1.2.3 requirements.

Other user guides

For more information on mandatory warning and advisory statements and declarations, see the FSANZ User Guide on *Warning and Advisory Statements and Declarations*.

5 Compound Ingredients

5.1 Declaring compound ingredients

Compound ingredients must be declared in the statement of ingredients in either of two ways:

1. By declaring the compound ingredient by name in its appropriate place in the statement of ingredients, i.e. generally in descending order of ingoing weight, and then listing the ingredients of the compound ingredient in brackets after the name of the compound ingredient, in descending order of their ingoing weight in the compound ingredient (as specified in the Table to clause 6); or
2. By declaring all of the ingredients of the compound ingredient separately as if they were individual ingredients of the final food.

Note that foods standardised in Standard 2.9.2 – Food for Infants must use the latter option of declaring all the ingredients of the compound ingredient separately as if they were individual ingredients of the final food.

Examples

Option 1

Declare the name of the compound ingredient and then in brackets after the name of the compound ingredient, declare the names of the ingredients in the compound ingredient.

The statement of ingredients for a milk chocolate biscuit may be declared, in descending order of ingoing weight, as:

Wheat, vegetable oil, milk solids, **milk chocolate (sugar, milk solids, cocoa butter, emulsifier (476), flavour)**, sugar, cocoa, salt;

OR

Option 2

Declare all the ingredients of the food by declaring all of the ingredients of the compound ingredient separately as if they were individual ingredients of the final food.

The statement of ingredients for a milk chocolate biscuit may be declared, in descending order of ingoing weight, as:

Wheat, vegetable oil, **milk solids**, **sugar**, cocoa, **cocoa butter**, **emulsifier (476)**, salt, **flavour**.

Code reference

Clause 6 of Standard 1.2.4 sets out the requirements for declarations of compound ingredients.

5.2 Ingredients of compound ingredients that don't require declaration

You must declare all the ingredients of compound ingredients, except where the compound ingredient is:

- present at less than 5% in a food and is declared in accordance with paragraph 6(1)(a) of Standard 1.2.4 (option 1 described above) (certain food additives and substances must still be declared, as outlined below)
- an alcoholic beverage specified in Standards 2.7.2 to 2.7.5 and the alcoholic beverage has been declared as an ingredient in the food.

Note: these exemptions do not override requirements relating to mandatory advisory and warning statements; and mandatory declarations in Standard 1.2.3 in relation to the presence of certain substances, such as allergens, under clauses 3 and 4 of Standard 1.2.3 (see section 4 – *Mandatory Declarations* above for more detail).

Compound ingredients at less than 5% of the food

Where a compound ingredient is present at less than 5% in a food and the compound ingredient is declared in accordance with paragraph 6(1)(a) of Standard 1.2.4 (option 1 described above), the only ingredients of the compound ingredient that are required to be declared in the statement of ingredients are any applicable allergens specified in the Table to clause 4 of Standard 1.2.3, and all food additives that perform a technological function in the final food (that is, the food as it is offered for sale). *Technological function* is defined in clause 1 of Standard 1.3.1 – Food Additives as 'a function set out in Schedule 5, but does not include the addition of a food additive to a single ingredient food that is not required by this Code to be labelled where a single process is applied and the food is presented in a manner which suggests that the organoleptic qualities have not been altered, other than through the process.'

You should consider the critical factors of the final food, e.g. shelf life, colour, texture, and determine whether compound ingredients present at less than 5% in the food contain food additives that are behaving in such a way as to affect these critical factors. If they are, then it is likely that the food additives are performing a technological function in the final food and should be declared.

Compound ingredients present at less than 5% in a food may contain food additives that are not performing a technological function in the final food. You need not declare these food additives when the compound ingredient itself is declared in accordance with paragraph 6(1)(a) of Standard 1.2.4.

Examples

An antioxidant in vegetable oil will not necessarily be performing a technological function once the vegetable oil has been added to a biscuit mix and then baked.

You can source information from ingredient suppliers or food additive manufacturers about whether a food additive may or may not be performing a technological function in the final food. This type of information would also be valuable should you be asked to substantiate why a particular food additive is or is not being declared in a statement of ingredients.

Where a compound ingredient is present at 5% or more in a food, all ingredients (including food additives) of the compound ingredient must be declared (except when the compound ingredient is an alcoholic beverage, as outlined below).

Alcoholic beverages specified in Standards 2.7.2 to 2.7.5.

Where the compound ingredient is an alcoholic beverage specified in Standards 2.7.2 to 2.7.5, the name of the alcoholic beverage must be declared in the statement of ingredients, e.g. beer, wine, brandy, rum, but not the ingredients of the alcoholic beverage.

Code reference

The Table to clause 6 of Standard 1.2.4 lists requirements for the declaration of compound ingredients when present in the food in amounts of 5% or more, or of less than 5%, of the total ingredients.

Subclause 6(3) of Standard 1.2.4 provides the exemption for alcoholic beverages standardised in Standard 2.7.2 to 2.7.5 from the requirement to declare the ingredients of these alcoholic beverages if the alcoholic beverage has been declared as an ingredient in the food.

6 Declaring Specific Ingredients

6.1 Water and volatile ingredients

The weight of any added water to be declared is calculated by determining the ingoing weight of the added water minus the amount that is removed (and/or used for reconstitution) in the course of preparation, manufacture or handling of the food (see calculations in Attachment 1).

After calculating the weight of added water to be declared, you must place the word 'water' in the list of ingredients immediately following the ingredient with the closest higher ingoing weight. Added water that constitutes less than 5% of the final food does not need to be declared in the statement of ingredients.

The declarable amount of a volatile ingredient is calculated in the same way as for added water. Its placement in the statement of ingredients is also determined in the same way.

You need not declare a volatile ingredient that is **completely** removed during the course of manufacture in the statement of ingredients.

Code Reference

Clause 5 of Standard 1.2.4 requires ingredients to be declared in the statement of ingredients in descending order of ingoing weight and lists the exceptions to this requirement. Subclause 5(2) includes requirements for declaring water and volatile ingredients.

Clause 3 of Standard 1.2.4 lists those ingredients that need not be declared in the statement of ingredients.

6.2 Alternative ingredients

Some manufacturers may regularly substitute one ingredient for another ingredient that performs a similar function. In this case, the statement of ingredients may list both ingredients in a way that makes it clear that alternative or substitute ingredients are being declared.

This provision allows some flexibility in declaring ingredients in the statement of ingredients, for instance, to allow for the seasonal availability of particular ingredients.

Example

The statement of ingredients for a biscuit may read: wheat flour, vegetable oil, **sultanas or raisins**, sugar, water.

However, in the following situations, new labels should be produced to reflect correctly the ingredients used in the food:

- declaring alternative ingredients when you have no intention of using the alternative ingredient
- declaring alternative ingredients when you have never used the alternative ingredient and have never investigated the use of the alternative ingredient from a formulation perspective

- declaring alternative ingredients when you have used alternative ingredients in the past but no longer wish to continue with the use of alternative ingredients.

You should also discuss with the relevant enforcement agency whether you can use existing stockpiles of old labels.

Code reference

Clause 7 of Standard 1.2.4 sets out requirements for declaration of alternative ingredients.

6.3 Food additives

For the purposes of ingredient labelling, food additives are treated in the same manner as other ingredients in a food. That is, food additives must be declared in their correct place in the statement of ingredients, by order of ingoing weight in the food.

If you use a genetically modified food additive **and** novel DNA and/or novel protein from that food additive are present in the final food, the food additive generally must be declared as 'genetically modified', in accordance with Standard 1.5.2 – Food Produced Using Gene Technology. This declaration may be made as part of the statement of ingredients.

Code reference

Clause 8 of Standard 1.2.4 lists more detailed requirements for declaration of food additives, including enzymes, flavourings and caffeine.

Standard 1.5.2 – Food Produced Using Gene Technology defines 'genetically modified food', 'novel DNA and/or novel protein' and 'altered characteristics' and sets out labelling requirements for food produced using gene technology.

6.4 Naming food additives

Schedule 1 of Standard 1.2.4 lists about twenty class names for food additives based on their technical function. Schedule 2 of Standard 1.2.4 lists all permitted food additives by their prescribed name and code number.

Where you must declare a food additive and the additive can be classified in one of the classes of additives in Schedule 1, the additive must be declared in the statement of ingredients in its correct place by its appropriate class name (from Schedule 1), followed by its prescribed name **or** code number in brackets (from Schedule 2).

A food additive that cannot be classified in one of the classes specified in Schedule 1 must be declared in the statement of ingredients by using its prescribed name (from Schedule 2).

Where a food additive can be classified in more than one class listed in Schedule 1, it must be declared in the statement of ingredients by its most appropriate class name.

Example

X does not have a class name listed in Schedule 1 but its prescribed name is listed in Schedule 2 along with its code number. In the statement of ingredients, X can be listed as X's prescribed name as indicated in Schedule 2.

Note that you only need to declare enzymes by the class name 'enzyme' and not by specifically declaring the name of the enzyme.

Where a food additive can be classified in more than one class listed Schedule 1, it must be declared in the statement of ingredients by its most appropriate class name.

Examples of food additives that can be classified in more than one class of additive

Pectin, guar gum and locust bean gum can be used as gelling agents, stabilisers or as thickeners.

Magnesium carbonate may be used as an anti-caking agent or as a mineral salt.

Xylitol can be used as a humectant or as a stabiliser.

Code reference

Clause 8 of Standard 1.2.4 sets out requirements for declaring food additives in the statement of ingredients.

6.5 Flavourings

Where a flavouring is added to or used in a food as an ingredient you must declare it in the statement of ingredients by either:

- 1. the word 'flavouring' or 'flavour'**
- or**
- 2. a more specific name or description of the flavouring.**

Where caffeine is added to a food it must always be declared as 'caffeine' in the statement of ingredients.

Where L-glutamic acid, monosodium glutamate, monopotassium L-glutamate, calcium di-L-glutamate, monoammonium L-glutamate, magnesium di-L-glutamate, disodium guanylate, disodium inosinate, and disodium 5'-ribonucleotides are added to a food as a flavouring or as an ingredient of flavouring, you must specifically declare their presence as follows.

Where the above-mentioned additive can be classified in one of the classes of additives listed in Schedule 1 of Standard 1.2.4, the additive must be declared by the name of that class, followed by the additive's prescribed name or code number in brackets as indicated in Schedule 2 of Standard 1.2.4 (subclause 8(2)).

However, where the above-mentioned additive cannot be classified in one of the classes of additives listed in Schedule 1 of Standard 1.2.4, the additive must be declared by its prescribed name as indicated in Schedule 2 of Standard 1.2.4 (subclause 8(5)).

The genetic modification (GM) status of the flavouring must also be declared where required by the Code. This declaration may be made as part of the statement of ingredients. Where a genetically modified flavouring is used and it makes up no more than 0.1% of the food you are not required to declare its GM status.

For more information on labelling of genetically modified foods see Standard 1.5.2 – Food Produced Using Gene Technology.

Code reference

Clause 8 of Standard 1.2.4 lists requirements for declaring food additives. Subclause 6 details requirements for naming flavourings. Requirements for declaring the specific flavourings name above are in subclauses 7 (L-glutamic acid and others) and 9 (caffeine).

Standard 1.5.2 – Food Produced Using Gene Technology defines ‘genetically modified food’, ‘novel DNA and/or novel protein’ and ‘altered characteristics’ and lists labelling requirements for food produced using gene technology. Paragraph 4(1)(e) includes definitions relevant to the labelling of genetically modified flavours.

6.6 Alternative food additives

As with ingredients generally, you may regularly substitute one food additive for another that performs a similar function. In this case, the statement of ingredients may list both food additives in a way that makes it clear that alternative or substitute food additives are being declared.

Example

Where you use preservative X for six months of the year and preservative Y for the rest of the year, the label may indicate that either preservative was used in the preparation, manufacture or handling of the food, e.g. preservative (X or Y) where X and Y may be expressed as either the food additive’s prescribed name or code number, if any (from Schedule 2).

Code reference

Clause 8 of Standard 1.2.4 lists requirements for declaring food additives in the statement of ingredients. Subclause 8(8) details the requirements for declaring alternative food additives.

6.7 Extra information on food additives

You may use additional words to qualify class names or food additives so long as they do not contradict, or detract from the intended effect of the required statement or information, and that the information is not false, misleading or deceptive or likely to mislead or deceive.

Code reference

Clause 12 of Standard 1.1.1 permits the modification of statements or information required by the Code, providing certain requirements are met.

The *Competition and Consumer Act 2010* (Australia) and the *Fair Trading Act 1981* (New Zealand) have provisions relating to misleading and deceptive conduct.

6.8 Vitamins and minerals

You may declare vitamins and minerals added to foods in the same way as described above for food additives, but using the class name ‘vitamin’ or ‘mineral’. If you make a nutrition content claim about the vitamin or mineral content of a food, and that vitamin or mineral has been added to the food, it must still appear in the statement of ingredients. That is, a

nutrition content claim differs from, and does not substitute for, declaring the vitamin or mineral as an ingredient.

Code reference

Clause 4 of Standard 1.2.4 requires ingredients to be declared in a statement of ingredients.

Clause 9 of Standard 1.2.4 provides an optional way of declaring vitamins and minerals in the statement of ingredients.

7 Percentage labelling & characterising ingredients

'Percentage labelling' requires food businesses to include, on a label on a package of food, a declaration of the proportion of *characterising components* and *characterising ingredients* of the food. The proportion of *characterising components* and *characterising ingredients* of the food must be calculated in accordance with Standard 1.2.10. All foods must bear such a declaration except where specific exemptions apply.

You may place percentage labelling information anywhere on the label. For example, the declaration may appear near the name of the food or in or near the statement of ingredients. However, if the declaration of a characterising ingredient is made in the statement of ingredients, it must appear immediately after the name of the ingredient in the statement of ingredients.

However, where the food is not in a package or is made and packaged on the premises from which it is sold, the declaration must be either:

- displayed on or in connection with the display of food; or
- provided to the purchaser on request.

Code reference

Standard 1.2.10 – Characterising Ingredients and Components of Food includes the labelling requirements for percentage labelling.

Clause 1 of Standard 1.2.10 defines *characterising component* and *characterising ingredient* of a food.

Other user guides

For detailed information on percentage labelling requirements, see the FSANZ User Guide on *Percentage Labelling of Food*.

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

Attachment 1

How to calculate the weight of added water or volatile ingredient in a food

Before calculating the amount of added water, first check to see if one of the exemptions from declaring it can be used. There is no point in doing this calculation if one of the exemptions applies.

First, add up the weights of all the ingredients that are used to make a batch of a food. Do not include the weight of added water in this calculation unless the added water is used to reconstitute ingredients during manufacture, and do not include the weight of volatile ingredients. This total weight is 'A'.

Second, determine the weight of final food that is being produced in the batch. This weight is 'B'.

The amount of added water or volatile ingredient in the food is calculated by subtracting 'A' from 'B', i.e. $B - A$. This weight is 'C'. If 'C' is less than zero then added water or the volatile ingredient does not need to be declared as it is lost during manufacture¹.

Added water need only be declared if it is 5% or more of the final food. To work this out do the following calculation:

$$\frac{C}{B} \times 100 = D$$

If 'D' is 5 or greater then added water will need to be declared and the weight 'C' should be used to determine the order of this declaration in the statement of ingredients.

If 'D' is less than 5 then added water need not be declared in the statement of ingredients.

¹ Where the value of C is greater than zero and the calculation includes both added water and an added volatile ingredient, manufacturers need to determine how much of C is contributed by the added water and how much by the added volatile ingredient. In many cases, the added volatile ingredient is known to be completely evaporated so C would be due to added water only. Where some added volatile ingredient remains, manufacturers should determine how much of the volatile ingredient remains and label it and the added water accordingly (refer to subclause 5(2) of Standard 1.2.4).



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Date Marking

User Guide

to

Standard 1.2.5 – Date Marking of Food

December 2013

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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 and the Commonwealth Department of Agriculture for imported food; and with the Ministry for Primary Industries in New Zealand.

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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

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Purpose of this User Guide

The purpose of this User Guide is to provide an overview on the date marking provisions set out in Standard 1.2.5 – Date Marking of Food and on whether and how to date mark food.

1. Date marking of foods

1.1 What is date marking?

Date marking provides consumers with a guide to the shelf life of a food, and is based on either quality attributes of the food or health and safety considerations. The date mark indicates the length of time a food should keep before it begins to deteriorate or, in some cases, before the food becomes less nutritious or unsafe. In Australia and New Zealand, there are two main types of date marking, these are 'best-before' and 'use-by'. There is also a further option in relation to date marking of bread with a shelf life of less than 7 days, where a 'baked-on' date or 'baked-for' date may be used instead of a 'best-before' date – see section 1.5 – *Date Marks for Bread* below.

1.2 Deciding when to use a 'best-before' or a 'use-by' date

The food business attaching the label is responsible for deciding whether a 'use-by' date or a 'best-before' date is needed. This will depend on whether these foods need to be eaten within a certain time because of health or safety reasons. The decision trees in sections 3 and 4 may help with these decisions. Alternatively, you may wish to seek expert advice (see page 13 for further information).

What is a 'best-before' date?

A 'best-before' date is the last date on which you can expect a food to retain all of its quality attributes, provided it has been stored according to any stated storage conditions and the package is unopened. Quality attributes include things such as colour, taste, texture, and flavour, as well as any specific qualities for which you make express or implied claims, such as the freshness of the food.

A food that has passed its 'best-before' date may still be perfectly safe to eat, but its quality may have diminished.

The label on a package of bread with a shelf life of less than 7 days may include, instead of a 'best-before' date:

- its 'baked-on' date; or
- its 'baked-for' date.

The conditions required for these date marks are described in section 1.5.

What is a 'use-by' date?

A 'use-by' date is the last date on which the food may be eaten safely, provided it has been stored according to any stated storage conditions and the package is unopened. After this date, the food should not be eaten for health and safety reasons.

The 'use-by' date is restricted to foods which need to be eaten within a certain time because of health and safety reasons.

1.3 What foods need a date mark?

Clause 2 of Standard 1.2.5 requires most packaged foods for retail sale or catering purposes to have a date mark on the food. However there are some exemptions to these requirements, namely:

- Foods that are generally exempt from labelling requirements, including date marking, are listed in Standard 1.2.1 – Application of Labelling and Other Information Requirements. For foods for catering purposes that are exempt from the requirement to bear a label, the date mark must be provided in documentation accompanying the food. The user guide to Standard 1.2.1 provides further information and guidance requirements for foods exempt from bearing a label (see page 13 for further information).
- Individual serves of ice cream or ice confection.
- Small packages of food (except where the food should be consumed by a certain date because of health or safety reasons).
- Foods where the 'best-before' date of the food is two years or more.

Infant formula products are required to be labelled with a date mark even if the shelf life of the product is more than two years or if the product is in a small package. See Standard 2.9.1 – Infant Formula Products.

With the exception of packaged foods which require a 'use-by' date, and infant formula products, there are no requirements for packaged food with a shelf life of 2 years or more to have a date mark. However, a best-before date may assist manufacturers and retailers to use old stock first, and assist consumers to purchase foods still within their date marks.

Code references

Standard 1.2.1 contains details of foods that are generally exempt from labelling requirements, including date marking.

'Small package' is defined in Standard 1.1.1 as – 'a package with a surface area of less than 100cm²'.

Clause 17 of Standard 2.9.1 – Infant Formula Products contains specific requirements in relation to date marking of these products.

1.4 Foods with expired date marking

You can still sell food with an expired 'best-before' date, provided the food is not spoiled and complies with any other applicable legislation, e.g. it is not damaged, deteriorated or perished to an extent that affects its reasonable intended use, or it is not unsound or unfit for human consumption. The relevant authority should be contacted for further information. Food must not be sold past its 'use-by' date, because consumption of the food may pose a health and safety risk. This prohibition is in clause 3 of Standard 1.2.5.

1.5 Date marks for bread

The label on a package of bread with a shelf life of less than 7 days may include a 'baked on' date or 'baked for' date, instead of a 'best-before' date.

What is a 'baked-for' date?

In relation to bread, a 'baked for' date means a date not later than 12 hours after the time the bread was baked. The 'baked for' date indicates the date the bread is being baked for, and provisions for this have been included in the Code to overcome problems associated with dating bread that is baked later in the day for sale the following day. This date cannot be later than 12 hours after the time the bread was baked. For example, bread that is baked after 12:00pm (midday) may include a 'baked-for' date that specifies the following day whereas bread baked before 12:00pm (midday) may not include a 'baked-for' date that specifies the following day.

What is a 'baked-on' date?

In relation to bread, a 'baked on' date means the date on which the bread was baked.

1.6 Other date marks

Subclause 7(1) of Standard 1.2.5 requires that the label on a package of food must not use a date marking system other than that prescribed by the Standard. It is common practice for some food businesses to use a 'packed on' date to indicate the freshness of the product. The Standard does not expressly permit nor prohibit the use of a 'packed on' date. However, as a 'packed on' date does not indicate the expected shelf life of the product, the 'packed on' date could not be used instead of the 'best-before' or 'use-by' date.

2. Use and form of date marking

2.1 Prescribed form of date mark

Subclauses 4(1) and 4(2) of Standard 1.2.5 require that a 'best-before' date must use the words 'Best Before', and a 'use-by' date must use the words 'Use By' (except for Food for Special Medical Purposes – see below).

Both must be accompanied by the date or a reference to where the date is located in the label, for example, 'Best Before – see base of can'.

In relation to bread with a shelf life of less than 7 days, subclauses 4(3) and 4(4) require a 'baked-for' date to use either the words 'Baked For' or 'Bkd For' and a 'baked-on' date must use either the words 'Baked On' or 'Bkd On'. Both must be accompanied by the date or a reference to where the date is located in the label.

Clause 13 of Standard 2.9.5 – Food for Special Medical Purposes, permits a label on a package of food for special medical purposes to use the words 'Expiry date' or words to similar effect instead of the words 'Use By', if the food is required to include a use-by date under Standard 1.2.5.

2.2 Prescribed form of the date

Clause 5 of Standard 1.2.5 requires that the 'best-before' date and 'use-by' date must consist at least of:

- the day and the month for products with a 'best-before' date or 'use-by' date of not more than 3 months; or
- the month and the year for products with a 'best-before' date or 'use-by' date of more than 3 months.

The 'best-before' date and 'use-by' date must be expressed in uncoded numerical form, other than the month, which may be expressed in letters. If the date mark consists of the day and month, the date mark must be expressed with the day preceeding the month, unless the month is expressed in letters, in which case the month can preceed the day. If the date mark consists of the month and year, the date mark must be expressed with the month preceeding the year. In all cases, the day, month and year as applicable, must be distinguishable.

Examples

In the case of 'best-before' or 'use-by' date of not more than 3 months:
'28 Jan' or 'Jan 28' or 'January 28' or '28 January' or '28 01'

In the case of 'best-before' or 'use-by' date of more than 3 months:
'Jan 2008' or 'January 2008' or '01 2008'

The dates must be legible and prominent such as to afford a distinct contrast to the background and in the English language, in accordance with the general requirements of Standard 1.2.9 – Legibility Requirements.

3. Date marking for health reasons

For certain foods, there may be health reasons for requiring date marking. This can include nutritional reasons, where the nutritional profile and maintenance of the levels of nutrients in the product are critical to the health of the consumer.

Special Purpose Foods

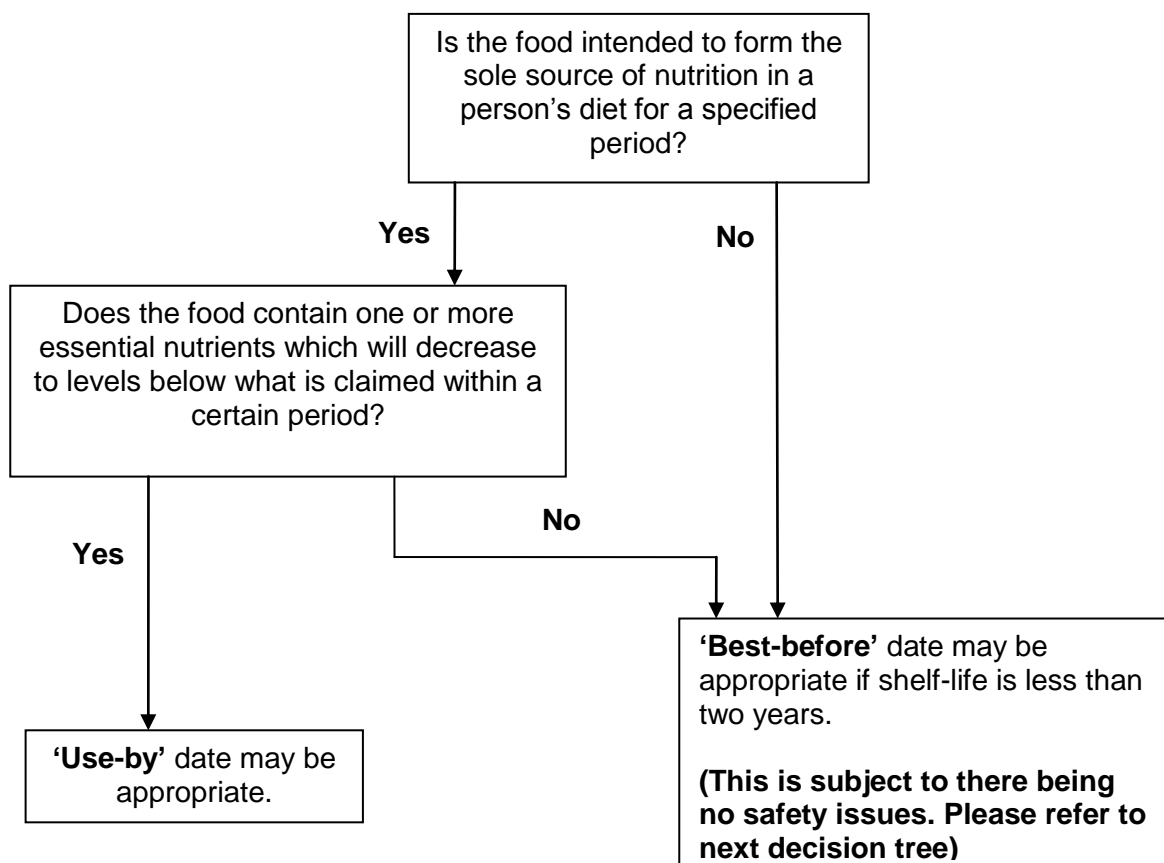
An example of this situation is the use of certain *Special Purpose Foods* in Part 2.9 of the Code, such as food for special medical purposes and infant formula products which provide the sole source of nutrition for people who are ill or who are unable to eat normal foods. Some nutrients are not stable and the amount of these in a food will decrease over time. Therefore, some foods need to be eaten within a certain period to ensure that they provide the claimed amounts of nutrients, and thereby achieve their intended purpose.

Hence, foods that fit this profile must be date marked with a 'use-by' date. This date will indicate the period the unopened food is expected to retain all nutrients in the correct amounts, provided it is stored according to any stated storage conditions.

Decision tree: applying a 'use-by' date for health reasons

The following decision tree provides an outline of the steps involved in a decision about whether a 'use-by' date needs to be applied to a food for health reasons, such as nutritional integrity.

Note: The circumstances with each food need to be considered individually and this decision tree is only to be used as a general guide.



4. Date marking for safety reasons

Safety reasons may include where food becomes microbiologically unsafe before discernibly spoiling. This includes where foods may contain unsafe levels of food poisoning organisms and the food does not show any sign of being spoiled, as the majority of food poisoning organisms do not spoil food. This may be the case with some chilled ready-to-eat foods. These foods are discussed below.

A food that discernibly spoils before posing a food safety risk would not need a 'use-by' date as spoilage can be detected by the consumer and the food then avoided. Spoiled food includes food that has become mouldy, rancid, soured, or stale.

'Use-by' dates **do not usually apply** to the following types of food:

- shelf-stable foods such as canned foods, cereals, biscuits, soft drink, sauces, confectionery, flour and sugar – these foods either do not contain, or do not support the growth of, food poisoning bacteria
- food such as ice cream, frozen vegetables, frozen meals, frozen fish and frozen meat – frozen food does not support the growth of food poisoning bacteria
- most raw food such as meat, chicken and fish that is eaten in a cooked state – where the later process kills food poisoning bacteria that may be present.

Chilled ready-to-eat food

A chilled ready-to-eat food is a chilled food that is usually eaten in the same state as that in which it is sold. Such foods include those that may only undergo a mild heat treatment, such as reheating, before eating.

Ready-to-eat chilled foods may need a 'use-by' date – these foods may pose a food safety risk because they will not be cooked before being eaten. Without further processing, such as cooking, to destroy food poisoning bacteria, some bacteria can grow to dangerous levels, even if the food is kept refrigerated, before the food noticeably spoils.

Ready-to-eat chilled foods may require a 'use-by' date if the food:

- may contain food poisoning bacteria that will grow at refrigeration temperatures;
- will support the growth of food poisoning bacteria that may be present to dangerous levels before the food has noticeably spoiled; and
- will not be cooked or otherwise processed to make it safe before being eaten.

The bacteria of concern are those that will grow at refrigeration temperatures. These are:

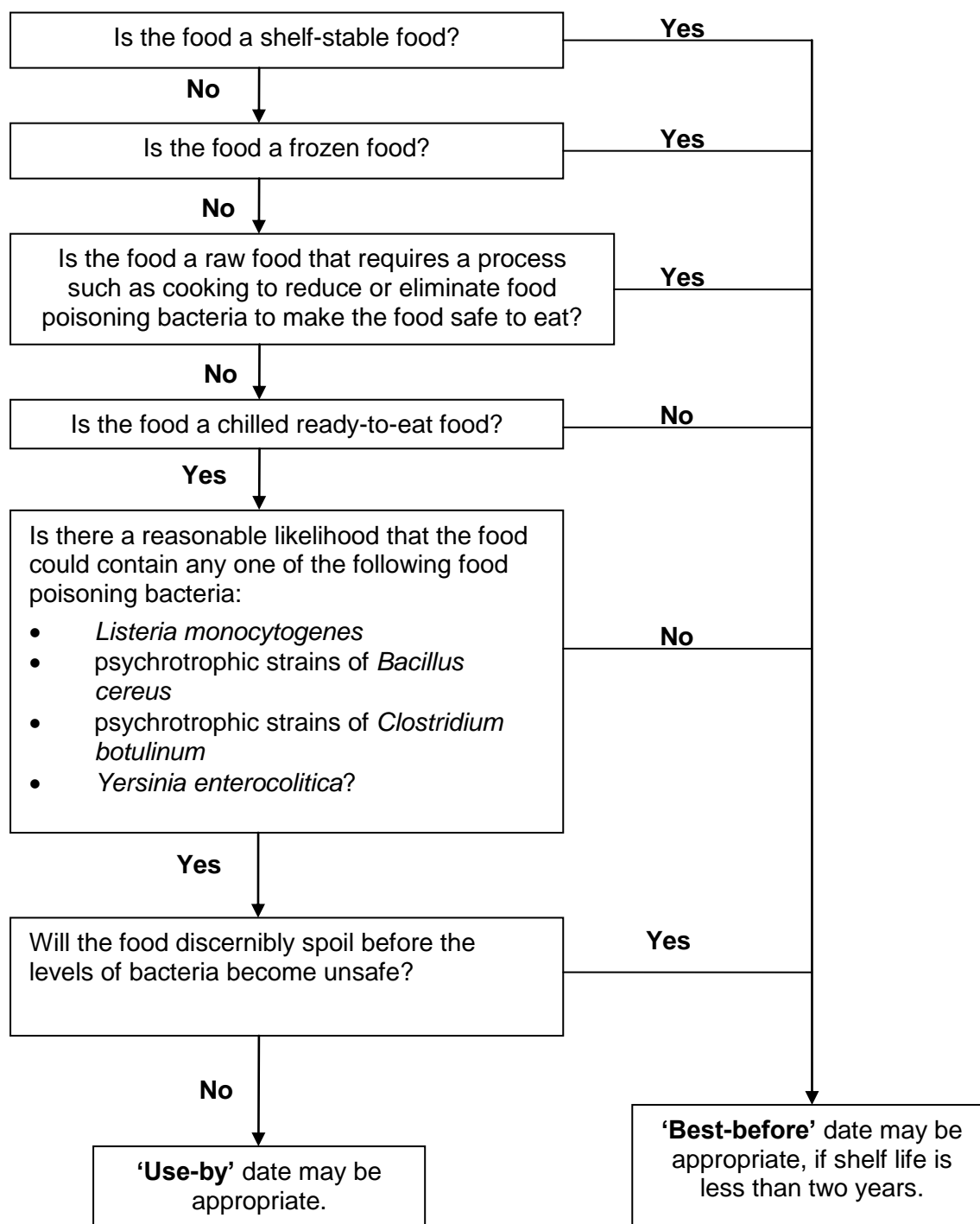
- *Listeria monocytogenes*
- strains of *Bacillus cereus* which will grow at refrigeration temperatures
- strains of *Clostridium botulinum* which will grow at refrigeration temperatures
- *Yersinia enterocolitica*.

If you manufacture any chilled ready-to-eat food you must determine if your product could contain any of these bacteria and, if so, whether the product would support bacterial growth. You may wish to seek expert advice to determine this information.

Decision tree: applying a 'use-by' date for safety issues

The following decision tree provides an outline of the steps involved in a decision about whether a 'use-by' date needs to be applied to a food for safety reasons.

Note: The circumstances with each food need to be considered individually and this decision tree is only to be used as a guide.



5. Shelf life of food

5.1 How do I calculate the shelf life of a food?

Foods with a 'best-before' date

If packaged foods need a 'best-before' date, you must determine how long it takes for the food to begin to deteriorate. Deterioration will occur when there are undesirable changes in the food. Undesirable changes may occur to the odour, colour, texture or flavour of the food. Food may deteriorate for the following reasons:

- growth of spoilage bacteria and moulds
- moisture changes in the food causing it to become too dry or too moist
- physical, chemical and biochemical changes which can alter flavour, colour and texture and cause loss of nutrients.

Foods with a 'use-by' date

If packaged foods need a 'use-by' date for food safety reasons, you will need to identify the food poisoning bacteria you want to control and predict how long the food can be safely kept. This must take into account the storage and distribution conditions to which the food will be subjected.

If packaged foods need a 'use-by' date for health reasons, you will need to identify the nutrients in the food that are not stable and work out how long these nutrients are likely to be present at the correct levels in the food. This must take into account how the food will be stored and distributed.

You may wish to seek expert advice before calculating the shelf life of a food. Laboratories that test food are usually able to assist with shelf-life studies.

6. Statement of storage conditions

Clause 6 of Standard 1.2.5 requires that the label on a package of food must include a statement of any specific storage conditions required to ensure the food will keep for the specified period indicated in the 'use-by' date or 'best-before' date.

In addition, as the date marks only refer to the unopened package of food, you may wish to provide advice to consumers on the shelf life and storage of a food after it is opened. This is compulsory where the food is of a nature to warrant directions for health or safety reasons.

Code reference

Standard 1.2.6 – Directions for Use and Storage describes specific use or storage requirements for health or safety reasons.

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

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

Commerce Commission of New Zealand

www.comcom.govt.nz/

Expert advice

Expert advice may be obtained from:

- scientific bodies and research organisations that provide expert advice on food safety
- teaching institutions with a food microbiology area
- food industry associations.



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Nutrition Information

User Guide

to

Standard 1.2.8 – Nutrition Information Requirements

December 2013

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Background

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Purpose

The purpose of this User Guide is to provide an overview for food businesses, enforcement officers and other users on the provisions set out in Standard 1.2.8 – Nutrition Information Requirements.

Other standards referring to nutrition labelling

The following standards also have provisions relevant to nutrition labelling:

- Standard 1.2.1 – Application of Labelling and Other Information Requirements sets out general labelling and information requirements, and exemptions to these requirements, and defines small packages.
- Standard 1.2.7 – Nutrition, Health and Related Claims sets out the nutrition content claims and health claims that can be made about a food and describes the conditions under which such claims can be made. This Standard requires certain information to be declared in the nutrition information panel in particular circumstances (see section 5 of this User Guide).
- Standard 1.3.2 – Vitamins and Minerals sets out some conditions for claims about the vitamin and mineral content of a food.
- Standard 2.2.1 – Meat and Meat Products sets out mandatory fat declaration where a reference is made to the fat content of minced meat.
- Standard 2.6.2 – Non-alcoholic Beverages and Brewed Soft Drinks has a clause that sets out requirements for claims in relation to the tonicity (e.g. *isotonic*) of electrolyte drinks and additional requirements for nutrition labelling.
- Standard 2.9.1 – Infant Formula Products includes specific nutrition labelling requirements that apply to infant formula products (Standard 1.2.8 does not apply to infant formula products).
- Standard 2.9.2 – Foods for Infants includes specific nutrition labelling requirements of foods intended and/or represented for use as food for infants.
- Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods includes nutrition labelling requirements that apply to formulated meal replacements and formulated supplementary foods.
- Standard 2.9.4 – Formulated Supplementary Sports Foods includes requirements for when a nutrition content claim is made about the vitamin and mineral content and other ingredients of these foods.
- Standard 2.10.2 – Salt and Salt Products includes requirements for labelling of reduced sodium salt mixtures and salt substitutes.

Standard 1.2.8 in brief

A nutrition information panel is required for many foods. How and when the nutrition information panel should be provided depends on the purpose of the food (refer to section 1 of this User Guide).

Some foods are exempt from including a nutrition information panel on a label (refer to section 2 of this User Guide).

Irrespective of the exemptions, where a claim requiring nutrition information¹ is made about a food, a nutrition information panel must be provided (see section 2 of this User Guide).

Energy, protein, fat, saturated fat, carbohydrate, sugars and sodium content must be included in the nutrition information panel (refer to section 3 of this User Guide). If a claim requiring nutrition information is made about other nutrients or a biologically active substance,² information about these must also be included in the nutrition information panel (refer to section 5 of this User Guide).

There are different nutrition labelling requirements for small packages (refer to section 6 of this User Guide).

¹ A 'claim requiring nutrition information' is defined in clause 4 as a nutrition content claim or a health claim, but does not include a declaration that is required by the Act or an endorsement (see glossary for definition of 'Act' and 'endorsement')

² Biologically active substance is defined in clause 1 of Standard 1.2.8 and means a substance, other than a nutrient, with which health effects are associated.

1. Foods which must carry a nutrition information panel

A nutrition information panel must be provided for most foods. How and when this information must be provided depends on the purpose of the food, that is, whether the food is designated for retail sale or catering purposes or whether it is food that is not for retail sale, not for catering purposes or not supplied for intra company transfer.

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.

Intra company transfer

means a transfer of food between elements of a single company, between subsidiaries of a parent company or between subsidiaries of a parent company and the parent company.

1.1 Food for retail sale

If none of the exemptions in either subclause 2(1) of Standard 1.2.1, or clause 3 of Standard 1.2.8 (as outlined in section 2 of this User Guide) apply to a food for retail sale, then a nutrition information panel must be provided (unless the food is in a small package – refer to section 2.3 of this User Guide). Where an exemption applies, a nutrition information panel is only required when a claim requiring nutrition information is made (see section 2 of this User Guide).

Code references

Subclause 2(1) of Standard 1.2.1 provides that certain foods for retail sale are exempt from bearing a label with all the prescribed information in the Code.

A 'claim requiring nutrition information' is defined in clause 4 of Standard 1.2.8 as a nutrition content claim or a health claim, but does not include a declaration that is required by the Act or an endorsement (see glossary for definition of 'Act' and 'endorsement')

1.2 Food for catering purposes

For food for catering purposes, which is packaged and does not meet any of the exemptions in clause 3 of Standard 1.2.8 (see section 2 of this User Guide), a nutrition information panel must be provided either on the label or in documentation (subclause 6(1) of Standard 1.2.1). The information must be provided in the prescribed format unless otherwise prescribed in the Code (see section 3 of this User Guide).

Where an exemption in clause 3 of Standard 1.2.8 applies, nutrition information is only required when a claim requiring nutrition information is made. As above, the nutrition information can be provided on the label or in documentation.

In addition, if a purchaser or relevant authority requests, food for catering purposes may need to be accompanied by sufficient information to enable the purchaser to comply with compositional, labelling or other declaration requirements in the Code (subclause 6(4) of Standard 1.2.1).

Code reference

Clause 6 of Standard 1.2.1 sets out the requirements for provision of nutrition information for foods for catering purposes.

1.3 Food not for retail sale etc

A food that is a *food not for retail sale etc* (as referred to in clause 4 of Standard 1.2.1) is a food that is not for retail sale, not for catering purposes and not supplied for intra company transfer. If requested by a purchaser or relevant authority, such food must be accompanied by sufficient information about the food to enable the purchaser to comply with the nutrition information requirements in the Code (see subclause 4(1) of Standard 1.2.1). This information must be supplied in writing if so requested (subclause 4(2) of Standard 1.2.1). For example, if a cream cheese is supplied to a company and they ask for the energy, protein, fat, saturated fat, carbohydrate, sugars and sodium content for the cream cheese to be provided, in writing, then this information must be provided as requested.

Code reference

Clause 4 of Standard 1.2.1 sets out general information requirements for food not for retail sale etc.

Other User Guides

For further information on the application of labelling and information requirements outlined in sections 1.1, 1.2 and 1.3 above, refer to the User Guide titled 'Overview and Application of Food Labelling and Information Requirements'.

2. Foods exempt from carrying a nutrition information panel

2.1 Food for retail sale

Food for retail sale (as defined in Standard 1.2.1) must bear a label setting out all the information prescribed in the Code, except for foods listed in paragraphs 2(1)(a) to (h) of Standard 1.2.1. The label on a package of food must include a nutrition information panel, except where the food is one of the types of food listed in clause 3 of Standard 1.2.8 (see also section 2.2 below).

In any case, if a 'claim requiring nutrition information' is made in relation to a food, clause 4 of Standard 1.2.8 requires that a nutrition information panel must be provided. A 'claim requiring nutrition information' is defined in clause 4 as a nutrition content claim or a health claim, but it does not include a declaration that is required by the Act or an endorsement (see the glossary in this User Guide for the definitions of 'Act' and 'endorsement').

Where a food does not need to bear a label setting out all the information prescribed in the Code, including a nutrition information panel, food businesses can still provide this information voluntarily but it must be in the format prescribed in Standard 1.2.8. This is because the voluntary provision of nutrition information could constitute a 'nutrition content claim'. If a claim requiring nutrition information is made, a nutrition information panel must be provided (clause 4 of Standard 1.2.8) in the prescribed form.

Food that is exempt from the general labelling requirements

When a claim requiring nutrition information is made about a food for retail sale that is exempt from the general labelling requirements under subclause 2(1) of Standard 1.2.1, a nutrition information panel would need to be displayed on or in connection with the display of the food, or provided to the purchaser upon request (subclause 4(3) of Standard 1.2.8).

Food that is exempt from the requirement to label with a nutrition information panel

Some packaged foods for retail sale are specifically exempt from the requirement to label with a nutrition information panel (under clause 3 of Standard 1.2.8). When a claim requiring nutrition information is made about these foods, this exemption no longer applies, and a nutrition information panel must be provided (subclause 4(2) of Standard 1.2.8).

The nutrition information panel should be provided on the label of the package of food, or, if the food is exempt from the requirement to bear a label under subclause 2(1) of Standard 1.2.1, the panel should be displayed on or in connection with the display of the food or provided to the purchaser on request.

Code reference

Subclause 2(1) of Standard 1.2.1 states that food for retail sale must bear a label setting out all the information prescribed in the Code, except for the food listed in paragraphs 2(1)(a)-(h). However subclause 2(2) of Standard 1.2.1 requires that the listed foods still comply with the requirements in subclauses 4(2) and 4(3) of Standard 1.2.8.

Other User Guides

For further information about the requirements for foods for retail sale, refer to the User Guide titled 'Overview and Application of Food Labelling and Information Requirements'.

2.2 Foods exempt from including a nutrition information panel on their labels

The following foods for retail sale and catering purposes are exempt from providing a nutrition information panel unless a claim requiring nutrition information is made (see clause 3 of Standard 1.2.8):

- prepared filled rolls, sandwiches, bagels and similar products
- fruit, vegetables, meat, poultry, and fish that comprise a single ingredient or category of ingredients
- jam setting compound
- gelatine (defined in Standard 1.1.2)
- a herb, spice, and herbal infusion
- tea, decaffeinated tea, decaffeinated instant or soluble tea, instant or soluble tea, coffee, decaffeinated coffee, decaffeinated instant or soluble coffee, instant or soluble coffee (defined in Standard 1.1.2)
- food in a small package (a small package is defined in Standard 1.2.1 and means a package with a surface area of less than 100 cm²)
- food additives (for the purposes of Standard 1.3.1)
- processing aids (defined in Standard 1.3.3)
- water, ice, or mineral water or spring water (defined in Standard 2.6.2)
- kava (standardised in Standard 2.6.3)
- alcoholic beverages (standardised in Standards 2.7.2 to 2.7.5)
- beverages containing no less than 0.5% alcohol by volume that are not standardised in Standards 2.7.2 to 2.7.5
- a kit which is intended to be used to produce an alcoholic beverage standardised in Standards 2.7.2 to 2.7.5
- vinegar and related products (defined in Standard 2.10.1)
- salt and salt products (defined in Standard 2.10.2).

It is important to note that a food that is made of a combination of exempt foods may not be exempt from the requirement to carry a nutrition information panel. For example, a package of meat coated with herbs and spices may be required to carry a nutrition information panel. When an exempt food is part of a mixed food, the contribution of the exempt food is still taken into account in determining the values in the nutrition information panel on the mixed food. For example, the apple in apple crumble would need to be taken into account in the final values in the nutrition information panel, even though the apple sold on its own would be exempt from carrying a nutrition information panel.

Code references

Clause 3 of Standard 1.2.8 lists foods exempt from nutrition information requirements.

Clause 4 of Standard 1.2.8 outlines the requirements for providing nutrition information panels when claims requiring nutrition information are made on foods normally exempt from including a nutrition information panel on the label.

2.3 Small packages

A small package is defined in Standard 1.1.1 and means a package with a surface area of less than 100 cm².

Small packages are exempt from including a nutrition information panel on the label. However, when you make a claim requiring nutrition information about a food in a small package, certain information must be included on the package's label.

For further information, refer to section 6 of this User Guide.

3. Nutrition information panels

3.1 What information should be in the nutrition information panel?

Subclause 5(1) of standard 1.2.8 sets out the information that must be included on a nutrition information panel.

The average quantity of the following must be declared per serving and per 100g or 100 ml of the food:

- energy content (expressed in kilojoules or in both kilojoules and calories (kilocalories))
- protein
- fat
- saturated fat
- carbohydrate
- sugars
- sodium³ (expressed in milligrams; or both milligrams and millimoles), and
- any other nutrient or biologically active substance⁴ about which a claim requiring nutrition information is made.

Some of the above terms are defined in clause 1 of Standard 1.2.8 (also see Attachment 1 of this User Guide).

A nutrition information panel must also include the average quantity of food in a serving and the number of servings of the food in the package expressed as either:

- the number of servings of the food, or
- where the weight or volume of the packaged foods is variable, the number of servings of the food per kg, or other units as appropriate.

The word 'slice', 'pack', or 'package' may replace the term 'serving'. For example, one slice of bread (28 g) may be used to represent a serving. The word 'serving' may also be replaced with any other appropriate word describing a common measure or unit including 'metric cup' or 'metric tablespoon'.

If a claim requiring nutrition information is made, other information specific to the nature of the claim may be required to be provided. For further information refer to section 5 of this User Guide.

Code references

Clause 1 of Standard 1.2.8 provides definitions for average energy content and several of the nutrients listed above (see the glossary to this User Guide).

Average quantity is defined in Standard 1.1.1 (see the glossary to this User Guide).

Subclause 5(1) of Standard 1.2.8 lists the information that must be included in a nutrition information panel.

³ protein, fat, saturated fat, carbohydrate, sugars, and sodium are referred to as 'the six mandatory nutrients' that must be declared, in this User Guide. Energy (not referred to as a nutrient in this User Guide), must also be declared.

⁴ Biologically active substance is defined in clause 1 of Standard 1.2.8 and means a substance, other than a nutrient, with which health effects are associated.

3.2 How should it be presented?

Clause 5 of Standard 1.2.8 sets out the prescribed format for the nutrition information panel.

The following is an example of how the nutrition information panel should be set out for a jar of peanut butter.

NUTRITION INFORMATION		
Servings per package: 25 Serving size: 15 g		
	Average Quantity per Serving	Average Quantity per 100 g
Energy	384 kJ	2560 kJ
Protein	4.4 g	29.3 g
Fat, total	7.6 g	50.7 g
– saturated	1.5 g	10.0 g
Carbohydrate	2.0 g	13.3 g
– sugars	0.9 g	6.0 g
Sodium	41 mg	273 mg

Notes:

1. In this User Guide, the term 'Average' is used at the beginning of the 'Quantity per Serving' and 'Quantity per g/mL' column headings in the nutrition information panel. Although the format for providing average quantities is not prescribed in Standards 1.2.1 and 1.2.8 (see section 3.5 of this User Guide), paragraph 5(2)(a) of Standard 1.2.8 states that a nutrition information panel must clearly indicate that the average quantities set out in the nutrition information panel are, in fact, average quantities.

2. If the food was a liquid, the heading of the column on the right hand side would be expressed as 'Quantity per 100 mL' rather than 'Quantity per 100 g' and the serving size could also be expressed in mL.

3.3 What values should be used in the nutrition information panel?

The values for the energy content, nutrients and biologically active substances listed must be average quantities.

An exception to this is for the declaration of fatty acids. Subclause 5(1A) of Standard 1.2.8 permits minimum or maximum quantities for fatty acids to be declared, but only where a claim is made about the polyunsaturated fatty acid content or monounsaturated fatty acid content of edible oils and edible oil spreads (for which there are compositional requirements specified in Standards 2.4.1 and 2.4.2) (refer to section 5.1 of this User Guide).

For solid and semi-solid foods, the values in the 'average quantity per serving' and 'average quantity per 100 g' columns should be calculated based on the final weight of the food (grams (g)). For liquid foods, the values in these columns should be calculated based on the volume of the food (millilitres (mL)).

Code References

'Average quantity' is defined in clause 2 of Standard 1.1.1. This clause states that average quantities may be determined by analysis of the food or calculation from specified information.

Subclause 5(1) of Standard 1.2.8 requires that the prescribed declarations in the nutrition information panel are average quantities.

Subclause 5(1A) of Standard 1.2.8 provides that the quantity of fatty acids may be set out in the nutrition information panel as a minimum or maximum quantity in particular circumstances.

3.4 How to determine the values for a nutrition information panel

There are a number of methods that are commonly used to obtain the food composition values that go into a nutrition information panel. These include:

- laboratory analysis of the food
- the FSANZ Nutrition Panel Calculator (free online software)
- other commercial software
- food composition tables or databases.

Clause 18 of Standard 1.2.8 gives prescribed methods of analysis for the determination of dietary fibre in food. When a food business chooses to include a specifically named fibre in the nutrition information panel, the food business should first work out which food components in column 1 of the Table to subclause 18(1) are present in the food and then use the appropriate method(s) of analysis in column 2. The results of the chosen methods of analysis are then added together if necessary. If any substance has been measured by more than one method of analysis, then any portion of this substance that has been included in the results of more than one method of analysis should be subtracted, to avoid double counting.

In the case of total dietary fibre, the food business should choose which method of analysis from column 2 of the Table to subclause 18(1) to use.

Further information about the methods for determining the food composition data for a nutrition information panel can be found in Attachment 2.

3.5 How to declare the values

The energy content can be listed either in kilojoules or both in kilojoules and calories (kilocalories). Calories can be expressed as 'Cal'. The prescribed conversion factor is one calorie for every 4.18 kilojoules.

The average quantity of protein, fat, saturated fat, carbohydrate and sugars must be declared in grams. The sodium content can be listed either in milligrams (mg) or both milligrams and millimoles (expressed as mmol).

The nutrition information panel must clearly indicate which quantities are average quantities and which (where permitted) are minimum or maximum quantities. The word 'Average' may be inserted at the beginning of the 'Quantity per Serving' and the 'Quantity per 100 g (or per 100 mL)' columns. Alternatively, a note below the nutrition information panel can be included, e.g. 'All values are considered averages unless otherwise indicated'.

The Code does not prescribe how to indicate minimum and maximum quantities. It is up to the food business to determine how to clearly indicate these quantities.

Where the average quantity of protein, fat, classes of fatty acids, carbohydrate, sugars or dietary fibre in a serving or unit quantity⁵ of food is less than 1 gram, the average quantity may be declared as 'LESS THAN 1 g'.

If the average energy content per serving or unit quantity of food of the food is less than 40 kJ, the average energy content may be declared as 'LESS THAN 40 kJ'.

Where the average quantity of sodium or potassium in a serving or unit quantity of food is less than 5 mg, the average quantity may be expressed as 'LESS THAN 5 mg'.

The Code does not include a provision allowing symbols such as '<' to be used as a substitute for 'LESS THAN...'

Code References

Paragraph 5(1)(d) of Standard 1.2.8 requires the average energy content to be declared either in kilojoules or both kilojoules and calories.

Subclause 1(2) of Standard 1.2.8 provides the formula for converting kilojoules to calories.

Subclause 5(2) of Standard 1.2.8 requires that the nutrition information panel must clearly indicate which quantities are average quantities and which are minimum and maximum quantities.

Clause 6 of Standard 1.2.8 gives permission to express the average quantity of certain substances as 'LESS THAN 1 g' or 'LESS THAN 5 mg' and for average energy content to be expressed as 'LESS THAN 40 kJ', where appropriate.

3.6 To how many significant figures should the values be declared to?

Values in the nutrition information panel must be declared to no more than three significant figures, using the prescribed units. A significant figure refers to the digits in a number excluding the zeros after an integral number or before a decimal fraction. For example, 0.0352 and 35,200 are both declared to three significant figures. The approach suggested by FSANZ for rounding significant figures is as follows:

- if the 4th significant figure is in the range 1 to 4, the 3rd significant figure is unchanged, e.g. 0.03524 is rounded to 0.0352
- if the 4th significant figure is in the range 6 to 9, the 3rd significant figure is rounded up, e.g. 0.03528 is rounded to 0.0353
- if the 4th significant figure is 5, rounding occurs as follows: if the 3rd significant figure is an even number, it remains unchanged, e.g. 0.03525 is rounded to 0.0352; if the 3rd significant figure is an odd number, it is rounded up eg 0.03575 is rounded to 0.0358.

Note that Standard 1.2.8 only requires that numbers be declared to a MAXIMUM of three significant figures; this does not preclude food businesses from declaring values less than three significant figures.

⁵ 'Unit quantity' is defined in clause 1 of Standard 1.2.8 as either 100g (solid or semi-solid foods) or 100 ml (beverage or other liquid food).

Code Reference

Subclause 6(1) of Standard 1.2.8 requires that the average energy content and average or minimum or maximum quantities of nutrients and biologically active substances is expressed in the nutrition information panel to no more than three significant figures.

3.7 What is a serving?

Serving sizes are not defined in the Code and the size of the serving used in the nutrition information panel is not prescribed, however the following suggestions are provided by FSANZ to assist food businesses to determine serving sizes.

Serving sizes specified by the food business should reflect a realistic portion of the food that a person might normally consume on one eating occasion. Other legislation may be applicable in this case, including that the serving size should not be false, misleading or deceptive, or likely to mislead or deceive.

If the serving size is equal to 100 g, the two columns are still required to be displayed in the nutrition information panel, namely the 'per serve' and 'per 100 g' (or per 100 mL) columns.

3.8 How should the servings per package be expressed?

The number of servings of the food in the package, or the number of servings of the food per kilogram or other unit as appropriate to the food, must be declared in the nutrition information panel. The option to declare the number of servings in the food per kilogram or other unit can only be used for packaged foods when the weight or volume of the food as packaged is variable, for example, sausages packed onto trays in a supermarket.

Code Reference

Paragraph 5(1)(a) of Standard 1.2.8 sets out the requirements for expressing the number of servings in the food.

3.9 How should the serving size be expressed?

The average quantity of food in a serving must be declared in the nutrition information panel. The serving size must be declared in grams (g) if the food is a solid or semi-solid and in millilitres (mL) if the food is a liquid. The food business would determine which declaration is appropriate i.e. whether a food is a solid, semi-solid or liquid food.

Code Reference

Paragraph 5(1)(b) sets out the requirements for declaring the average quantity of food in a serving.

3.10 Foods that the consumer prepares before consumption

For most foods, the nutrition information panel should be based on the form of the food as it is when sold. For example, if the food is sold uncooked but requires cooking before consumption, the nutrition information panel should be provided for the uncooked food. However, as outlined below, there are certain requirements for foods that require reconstituting; draining prior to consumption; or are intended to be prepared or consumed with at least one other food.

Where foods should be reconstituted with water or drained before consumption, the quantities in the nutrition information panel should reflect the food as reconstituted or drained, as applicable.

For example, if it is recommended that cordial be diluted one part cordial to four parts water, the values in the nutrition information panel should be based on the cordial in its ready-to-drink form. The label should clearly indicate that the values in the nutrition information panel relate to the food as drained, reconstituted or diluted, as applicable.

Where a food business intends that the food be prepared or consumed with at least one other food, the nutrition information panel should contain a 'per serve' and a 'per 100 g' (or per 100 mL) column that reflects the contents of the package of the food to be prepared or consumed with the other food as usual. Food businesses also have the option to include an additional column in the nutrition information panel that reflects the food prepared with other intended foods. However if a claim requiring nutrition information is made about a food that is required to be prepared or consumed with at least one other food, the nutrition information panel must include this additional column. The top of this column would outline what the additional foods are and the quantities of these foods. The column would then reflect the average quantities of energy and nutrients in the food made up with the other intended foods. It is at the supplier's discretion whether this column is displayed per serve or per 100 g or 100 mL.

The following is an example of how the nutrition information panel could be set out for a food intended to be prepared or consumed with other food.

NUTRITION INFORMATION			
Servings per package: (insert number of servings)			
Serving size: g (or mL or other units as appropriate)			
	Average Quantity per Serving	Average Quantity per 100g	Average quantity per serving with + ¹
Energy	kJ (Cal)	kJ (Cal)	kJ (Cal)
Protein	g	g	g
Fat, total	g	g	g
– saturated	g	g	g
Carbohydrate	g	g	g
– sugars	g	g	g
Sodium	mg (mmol)	mg (mmol)	mg (mmol)

¹ list other foods and their quantity

Code References

Clauses 9 and 10 of Standard 1.2.8 refer to foods where directions on the label indicate that they be drained or reconstituted with water before consumption.

Clauses 11 and 11A of Standard 1.2.8 refer to foods that are intended to be prepared or consumed with at least one other food.

3.11 Common Mistakes

FSANZ research⁶ indicates there are common mistakes in preparing nutrition information panels that may affect consumers' ability to understand and interpret the information given. FSANZ recommends that:

⁶ 2006 Label monitoring survey:

- a panel heading 'NUTRITION INFORMATION' is provided
- serving information (servings per pack and serving size) is provided and that the correct wording is used
- all required nutrients and energy are presented (irrespective of whether or not they are present in the food) and are listed in the correct order
- symbols such as '<' to describe mathematical terms with respect to nutrient values are not used (see section 3.5 of this User Guide)
- all values presented in the nutrition information panel are clearly indicated as being average quantities, or minimum or maximum quantities as the case may be.

Regarding the format of the nutrition information panel, FSANZ recommends checking the following:

- internal and external borders are correct and, in particular, that internal borders are included as required
- serving information (servings per pack and serving size) is presented in the correct text case and is correctly aligned
- column headings are worded using the prescribed format
- nutrients are presented in the correct text case and in the correct order.

4. Percentage daily intake and percentage recommended dietary intake information

Percentage daily intake information may be voluntarily provided in the nutrition information panel. Where such information is provided, there are mandatory requirements governing its use.

Percentage recommended dietary intake (RDI) information must be provided if a claim requiring nutrition information is made about a vitamin or mineral that has an RDI (see section 4.4 of this User Guide).

4.1 What is percentage Daily Intake (%DI)?

Daily intake reference values provide information on the total amount of energy, protein, fat, saturated fatty acids, carbohydrate, sugars, dietary fibre and sodium to be consumed daily by an 'average' adult, based on an 8700 kJ diet that is in accordance with national dietary guidelines. Percentage daily intake information therefore expresses the percentage of the daily intake for these particular nutrients and energy that will be obtained from consuming one serving of the food. Percentage daily intake values must be calculated using the daily intake reference values stated in the Table to subclause 7(3) of Standard 1.2.8. For example, the daily intake reference value for fat is 70 g. A food that has 14 grams of fat per serving could state on the label that the %DI for fat is 20%.

The %DI values are based on a single set of average reference values for adults and as such, are not directly applicable to individual needs or specific sub-groups of the population such as children. The prescribed reference values are intended to provide an approximate reference measure and are derived from a variety of recognised sources (refer Attachment 3).

Percentage daily intake information differs from percentage RDI information which specifically applies to vitamins and minerals.

4.2 How to calculate the %DI values

Where %DIs are included in the nutrition information panel, the %DIs must be calculated using the reference values prescribed in the Table to subclause 7(3) of Standard 1.2.8 (see Attachment 3 for the reference values and the basis for these). The following formula could be used to determine the %DI:

$$\%DI = \frac{\text{Quantity of energy or nutrient in a serving}}{\text{Reference value}} \times 100$$

Example

If one serving of the food contains 10 g of fat and the reference value for fat is 70 g, the %DI for fat, for one serving of the food, rounded to the nearest whole number, would be:

$$\frac{\text{Quantity of fat in a serving}}{\text{Reference value}} \times 100 = \frac{10}{70} \times 100 = 14.28 = 14\%$$

4.3 What information must be provided?

Where %DI values are displayed in the nutrition information panel, you must include the %DI for energy, protein, fat, saturated fatty acids, carbohydrate, sugars, and sodium provided by the food. It is at the discretion of the food business whether %DI for dietary fibre is included.

Either of the following statements must also be included in the nutrition information panel where %DI values are included:

‘*based on an average adult diet of 8700 kJ’

‘*Percentage daily intakes are based on an average adult diet of 8700 kJ.’

4.4 Percentage RDI

Percentage RDI (Recommended Dietary Intake) information expresses the percentage of the RDI of certain vitamins and minerals, that will be obtained from consuming one serving of the food. Percentage RDI information must be provided if a claim requiring nutrition information is made about or based on a vitamin or mineral that has an RDI listed in the Code. The vitamins and minerals with RDIs are listed in the Schedule to Standard 1.1.1.

The percentage of the RDI (%RDI) for the claimed vitamin or mineral contributed by one serving of the food must be set out in the nutrition information panel. Where %RDIs are included in the nutrition information panel, the %RDIs must be calculated using the RDIs listed in the Schedule to Standard 1.1.1 and the applicable nutrient values set out in the nutrition information panel. The following formula could be used to determine the %RDI:

$$\%RDI = \frac{\text{Quantity of vitamin or mineral in a serving}}{RDI} \times 100$$

Percentage RDI information is not required for a food for infants (standardised by Standard 2.9.2), however it may voluntarily be provided in the nutrition information panel of these foods.

The following is an example of a nutrition information panel containing %DI and %RDI values.

NUTRITION INFORMATION			
Servings per package: (insert number of servings)			
Serving size: g (or mL or other units as appropriate)			
	Average Quantity per Serving	% Daily Intake* (per Serving)	Average Quantity per 100 g (or 100 mL)
Energy	kJ (Cal)	%	kJ (Cal)
Protein	g	%	g
Fat, total	g	%	g
– saturated	g	%	g
Carbohydrate	g	%	g
– sugars	g	%	g
Sodium	mg (mmol)	%	mg (mmol)
		% RDI (per serving)	
Vitamin C	mg	%	mg
Calcium	mg	%	mg
*Percentage daily intakes are based on an average adult diet of 8700 kJ.			

4.5 Presenting percentage DI or RDI information outside the nutrition information panel

Certain rules apply if the %DI or %RDI information provided in the nutrition information panel as outlined above, is also presented outside the nutrition information panel, for example on the front of a food label. The %DI and %RDI information must be presented together with the serving size of the food. If more than one %DI or %RDI value is presented outside the nutrition information panel, those values must be presented together. Information that is presented in accordance with these requirements is not considered to be a nutrition content claim.

Percentage DI or %RDI information cannot be presented outside the nutrition information panel on foods that contain more than 1.15% alcohol by volume.

Code Reference

Clause 7 of Standard 1.2.8 sets out the conditions for percentage daily intake information.

Clause 7A of Standard 1.2.8 sets out the conditions for percentage recommended dietary intake information.

Clause 7B of Standard 1.2.8 sets out the requirements for %DI and %RDI information presented outside the nutrition information panel.

5. Nutrition information panels where claims are made

Conditions for making nutrition content claims and health claims about a food are set out in Standard 1.2.7 – Nutrition, Health and Related Claims. Nutrition content claims and health claims are ‘claims requiring nutrition information’. If a claim requiring nutrition information is made, specific information, including the name and average amount of any claimed nutrient or biologically active substance in the food must be included in the nutrition information panel (in addition to the average energy content and the six mandatory nutrients, as outlined in section 3.1 of this User Guide).

The following example shows how a nutrition information panel may be set out for a tomato sauce with a nutrition content claim that it is a ‘source of lycopene’.

NUTRITION INFORMATION		
Servings per package: 20 Serving size: 20 mL		
	Average Quantity per Serving	Average Quantity per 100 mL
Energy	86.4 kJ	432 kJ
Protein	0.2 g	1.1 g
Fat, total – saturated	LESS THAN 1 g LESS THAN 1 g	LESS THAN 1 g LESS THAN 1 g
Carbohydrate – sugars	5 g 4.9 g	25 g 24.4 g
Sodium	123 mg	615 mg
Lycopene	2.6 mg	13 mg

Nutrition information may not always need to be provided in a nutrition information panel format. Foods in small packages have specific requirements when nutrition claims are made about them – see section 6 of this User Guide.

Code reference

Paragraph 5(1)(g) of Standard 1.2.8 requires, among other things, the name and average quantity of any nutrient or biologically active substance for which a claim requiring nutrition information is made to be included in the nutrition information panel.

5.1 Declarations of other nutrients or substances when certain claims are made

If a claim requiring nutrition information is made, other information specific to the nature of the claim may be required. This information is outlined in the sections below.

There are additional information requirements in Standard 1.2.7 and Standard 1.2.8 associated with making nutrition content claims and health claims about:

- polyunsaturated and monounsaturated fatty acids (subclauses 5(1A), 5(1B) and 5(4) of Standard 1.2.8)
- omega fatty acids (subclause 5(4) of Standard 1.2.8 and Schedule 1 of Standard 1.2.7)

- trans fatty acids (subclause 5(4) of Standard 1.2.8)
- saturated fatty acids (subclause 5(4) of Standard 1.2.8)
- cholesterol (subclause 5(4) of Standard 1.2.8)
- salt, sodium, and potassium (Schedule 1 of Standard 1.2.7)
- dietary fibre or any specifically named dietary fibre (subclause 5(5) and clause 18 of Standard 1.2.8)
- sugars (subclause 5(5) of Standard 1.2.8)
- carbohydrate (subclause 5(5) of Standard 1.2.8)
- vitamins and minerals (clause 7A of Standard 1.2.8).

When the nutrition information panel includes nutrients that are sub-groups of other declared nutrients, they should be indented under the main nutrient and set out in logical groupings, e.g. the saturated, trans, polyunsaturated and monounsaturated fatty acids should be indented under the declaration of total fat.

Code Reference

Subclause 5(7) of Standard 1.2.8 outlines the required panel format when certain nutrients are declared in the nutrition information panel.

Nutrition information panels when a claim about polyunsaturated fatty acids or monounsaturated fatty acids is made

If a claim requiring nutrition information is made about polyunsaturated fatty acids or monounsaturated fatty acids, the nutrition information panel must include declarations of the content of trans, polyunsaturated and monounsaturated fatty acids, in addition to a declaration of energy content and the quantity of the six mandatory nutrients referred to in subclause 5(1). Note that these conditions do not apply when claims are made about food in a small package – refer to section 6 of this User Guide for the requirements for small packages.

If a claim is made about the polyunsaturated fatty acid content or monounsaturated fatty acid content of edible oils and edible oil spreads (for which there are compositional requirements specified in Standards 2.4.1 and 2.4.2), the content of the different types of fatty acids can be expressed as a minimum or a maximum instead of the average quantity in a serving of food. There is no prescribed format for declaring minimum or maximum quantities but the nutrition information panel should clearly indicate that the values are expressed as a maximum or minimum as applicable. For example, they could be shown as bracketed abbreviations '(min)' and '(max)' after the relevant fatty acid quantities (in grams) listed in the 'Quantity per Serving' column. Total fat content would still be expressed as an average quantity.

The following is an example of how a nutrition information panel may be set out when a nutrition claim about polyunsaturated fatty acid content is made on an edible oil:

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: mL		
	Average Quantity per Serving	Average Quantity per 100 mL
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
– saturated (max)	g	g
– trans (max)	g	g
– polyunsaturated (min)	g	g
– monounsaturated (min)	g	g
Carbohydrate	g	g
– sugars	g	g
Sodium	mg (mmol)	mg (mmol)

Code References

Subclause 5(4) of Standard 1.2.8 sets out the requirements for nutrition information panels when nutrition claims are made about polyunsaturated fatty acids and monounsaturated fatty acids.

Subclauses 5(1A) and 5(1B) of Standard 1.2.8 enable the quantity of fatty acids to be set out in the nutrition information panel as a minimum or maximum quantity on edible oils or edible oil spreads.

Nutrition information panels when claims about omega fatty acids are made

If a claim requiring nutrition information is made about omega-3, omega-6 or omega-9 fatty acids, the nutrition information panel must contain information about the claimed nutrient (e.g. omega-3) as well as a declaration of the content of trans fatty acids, polyunsaturated fatty acids, and monounsaturated fatty acids, in addition to the declaration of energy content and the quantity of the six mandatory nutrients referred to in subclause 5(1). Refer to section 6 of this User Guide for information about the requirements when claims are made about food in small packages.

The nutrition information panel must contain the content of the omega-3, omega-6 or omega-9 fatty acid that is the subject of the claim (paragraph 5(1)(g) of Standard 1.2.8), e.g. under 'polyunsaturated'. And for nutrition claims about omega-3 fatty acids, the nutrition information panel must indicate the type of omega-3 fatty acid (namely ALA or EPA and DHA) (see Column 2 of Schedule 1 of Standard 1.2.7).

The following is an example of the format of a nutrition information panel for a food carrying an omega-3 nutrition content claim.

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Average Quantity per Serving	Average Quantity per 100 g (or 100 mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
– saturated	g	g
– trans	g	g
– polyunsaturated	g	g
– omega 3	g	g
– eicosapentaenoic acid	mg	mg
– docosahexaenoic acid	mg	mg
– monounsaturated	g	g
Carbohydrate	g	g
– sugars	g	g
Sodium	mg (mmol)	mg (mmol)

Code References

Subclause 5(4) of Standard 1.2.8 and Schedule 1 of Standard 1.2.7 set out the requirements for nutrition information panels when nutrition content claims are made about omega fatty acids.

Claims about trans fatty acids, saturated fatty acids, and cholesterol

If a claim requiring nutrition information is made about trans fatty acids, saturated fatty acids, or cholesterol, the nutrition information panel must contain a declaration of the content of the claimed nutrient as well as a declaration of the content of trans fatty acids, polyunsaturated fatty acids, and monounsaturated fatty acids, in addition to the declaration of energy content and the quantity of the six mandatory nutrients referred to in subclause 5(1). Refer to section 6 of this User Guide for information about the requirements when claims are made about food in small packages.

Code Reference

Subclause 5(4) of Standard 1.2.8 sets out the requirements for nutrition information panels when nutrition claims are made about trans fatty acids, saturated fatty acids, and cholesterol.

Nutrition information panels when claims about salt, sodium or potassium are made

If a nutrition content claim is made about the salt, sodium or potassium content of the food, the nutrition information panel should contain both the sodium and potassium content, in addition to the declaration of energy content and the quantity of the six mandatory nutrients referred to in subclause 5(1).

Code Reference

Column 2 of Schedule 1 of Standard 1.2.7 sets out the requirement for the sodium and potassium content to be indicated in the nutrition information panel.

Nutrition information panels when claims about fibre, sugars, and other carbohydrates are made

If a claim requiring nutrition information is made about fibre, any specifically named fibre, sugars or any other carbohydrate (including carbohydrate itself), the nutrition information panel must include a declaration of the presence or absence of dietary fibre, in addition to the declaration of energy content and the quantity of the six mandatory nutrients referred to in subclause 5(1). Refer to section 6 of this User Guide for information about the requirements when claims are made about food in small packages. Absence of dietary fibre must be declared as zero (0).

The following is an example of the required panel format in relation to a claim about a specifically named dietary fibre (inulin).

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Average Quantity per Serving	Average Quantity per 100 g (or 100 mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
– saturated	g	g
Carbohydrate	g	g
– sugars	g	g
Dietary fibre, total	g	g
– inulin	g	g
Sodium	mg (mmol)	mg (mmol)

Code references

Subclauses 5(5) and 5(5A) of Standard 1.2.8 set out the requirements for nutrition information panels when nutrition claims are made about fibre, specifically named fibre, sugars or any other carbohydrate.

Clause 18 of Standard 1.2.8 lists the methods of analysis that should be used to determine dietary fibre and components of dietary fibre. Attachment 1 to this User Guide provides further detail.

Nutrition information panels when claims about lactose are made

If a nutrition content claim is made in relation to the content of lactose in a food, the nutrition information panel must indicate the amount of lactose and galactose in the food, in addition to energy and the six mandatory nutrients referred to in subclause 5(1), and dietary fibre, as outlined above.

The following is an example of the format of a nutrition information panel for a food carrying a lactose nutrition content claim.

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Average Quantity per Serving	Average Quantity per 100 g (or 100 mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
– saturated	g	g
Carbohydrate	g	g
– sugars	g	g
– lactose	g	g
– galactose	g	g
Dietary fibre	g	g
Sodium	mg (mmol)	mg (mmol)

Code Reference

Column 2 of Schedule 1 of Standard 1.2.7 sets out the requirement for the lactose and galactose content to be indicated in the nutrition information panel.

5.2 Additional information requirements for foods required to meet the nutrient profiling scoring criterion

Health claims and some nutrition content claims are only permitted on foods that meet the nutrient profiling scoring criterion (NPSC) set out in Standard 1.2.7. There are some additional labelling requirements for foods that carry claims and are required to meet the NPSC in order to make the claim. If a property of food, such as dietary fibre, is relied upon for the food to meet the NPSC, this property and the amount of this property of food per serving and per unit quantity must be declared in the nutrition information panel. Likewise, for cheese and processed cheese as defined in Standard 2.5.4 with a calcium content of more than 320 mg per 100g, the calcium content of the cheese or processed cheese must be declared in the nutrition information panel if the food must meet the NPSC in order to carry a claim.

If the food in question is exempt from the requirement to bear a label under clause 2 of Standard 1.2.1, this information must be provided to the purchaser of the food at the request of the purchaser, or by declaring the information in a nutrition information panel displayed on or in connection with the display of the food.

There are exemptions from these additional labelling requirements for food in small packages.

Code References

Clause 25 of Standard 1.2.7 sets out the additional labelling requirements for foods required to meet the NPSC.

Clause 26 of Standard 1.2.7 provides exemptions for food in small packages.

5.3 Voluntary items in the nutrition information panel

A 'voluntary item' is a particular which is permitted by the Code to be included in the nutrition information panel. A 'mandatory item' is a particular which is required by the Code to be included in the nutrition information panel in some or all circumstances. A mandatory item is not a nutrition content claim.

If a voluntary item in the nutrition information panel meets the definition of nutrition content claim in Standard 1.2.7, any conditions applicable to that nutrition content claim must be met. For example, if iron is voluntarily declared in the nutrition information panel of a food, the relevant conditions for making a claim about iron content in Standard 1.2.7 must be met. However some nutrients can be declared voluntarily in the nutrition information panel, without meeting the conditions for the applicable nutrition content claim in Standard 1.2.7. These nutrients are dietary fibre, trans fatty acids and lactose.

A nutrition information panel can be provided voluntarily on a food containing more than 1.15% alcohol by volume, and it will not be considered a nutrition content claim.

Code Reference

Clause 19 of Standard 1.2.8 defines 'voluntary item' and 'mandatory item' and outlines the voluntary items in the nutrition information panel that are not nutrition content claims.

6. Nutrition information when claims about food in a small package are made

A small package means a package with a surface area of less than 100 cm².

Whether the label on a small package is required to include the average quantity of energy or other nutrients, e.g. protein, fat, saturated fat, carbohydrate, sugars, and sodium, depends on whether a claim requiring nutrition information is made about the food and what property of food that claim is about (refer to the sections below).

If a claim requiring nutrition information is made on or about a food in a small package, the label must include the average quantity of the food in a serving. This must be expressed in grams for solid and semi-solid food, and in millilitres for liquid foods. The word 'serving' may be replaced with the word 'slice', 'pack' or 'package', or with words expressing a unit or common measure, such as a metric tablespoon.

In addition, if a claim requiring nutrition information is made about a nutrient or biologically active substance, the label must include the average quantity of the nutrient or biologically active substance present per serving of the food.

If a claim requiring nutrition information is made about energy, the label must include the average quantity of energy present per serving of food.

If a claim requiring nutrition information is made about a vitamin or mineral with an RDI in the Schedule to Standard 1.1.1, the label must include the percentage of the RDI for that vitamin or mineral contributed by one serving of the food. The percentage of the RDI must be calculated in accordance with clause 7A of Standard 1.2.7.

This information required on the label of a small package does not need to be in the nutrition information panel format prescribed in clause 5 of Standard 1.2.8.

The quantity of certain nutrients may be declared as a minimum or maximum quantity rather than an average quantity. It must be made clear on the label whether the quantity is an average, maximum or minimum.

There are additional labelling requirements where particular claims requiring nutrition information are made about food in a small package. These are set out in the Table to subclause 8(3). Note that requirements in more than one row in this Table may apply when just one nutrition content claim is made. For example, if a 'lactose free' claim is made, the label must include the average quantity of lactose, the average quantity of energy, carbohydrate, sugars and dietary fibre (as lactose is a type of carbohydrate) and the minimum, maximum or average quantity of galactose.

Example

This product is low in fat.

If you make this claim on a small package of a solid or semi-solid food, the label should include the serving size of the food and the amount of fat per serving (expressed in grams).

E.g. Average quantity of fat: 0.2g per 10 g serving

Code References

A small package is defined in Standard 1.1.1.

A 'claim requiring nutrition information' is defined in clause 4 of Standard 1.2.8.

Clauses 8 and 8A of Standard 1.2.8 set out the nutrition labelling requirements for small packages.

The Table to subclause 8(3) sets out the additional labelling requirements where particular claims requiring nutrition information are made about food in a small package.

6.1 Claims about dietary fibre, sugars, and other types of carbohydrate in relation to food in a small package

If a claim requiring nutrition information is made about dietary fibre, sugars or any other type of carbohydrate in relation to a food in a small package, the label must include the average serving size of the food and the average quantity of energy, carbohydrate, sugars and dietary fibre present, as well as the average quantity of the claimed nutrient present, per serving of the food.

If the average quantity of carbohydrate has been determined using the 'carbohydrate by difference' calculation as defined in clause 1 of Standard 1.2.8, and the unavailable carbohydrate has been subtracted in this calculation, the amount of unavailable carbohydrate must also be declared on the label. The amount of unavailable carbohydrate must not include the amount of dietary fibre.

In addition, if the food contains any of the substances in Column 1 of Table 2 to subclause 2(2) of Standard 1.2.8 other than organic acids, and the substances, either on their own or in combination, are present in the final form of the food at no less than 5 g per 100 g, the presence of those substances must be declared on the label.

Example

This product contains dietary fibre

If you make this claim on a small package of a solid or semi-solid food, the label should include the average quantity of energy, carbohydrate, sugars and dietary fibre per serving (expressed in grams).

E.g. Average quantity per 10 g serving – Energy: 125 kJ; Carbohydrate: 4.2 g; Sugars: 2.1 g; Dietary fibre: 2.1 g.

6.2 Lactose claims in relation to food in a small package

If a claim requiring nutrition information is made about lactose in relation to a food in a small package, the label must include the average serving size of the food, the average quantity of lactose and the minimum, maximum or average quantity of galactose present per serving of the food. The requirements for making claims about 'any other carbohydrate', as outlined above, should also be met.

6.3 Claims about cholesterol and fatty acids in relation to food in a small package

If a claim requiring nutrition information is made about cholesterol, saturated fatty acids, trans fatty acids, polyunsaturated fatty acids or monounsaturated fatty acids, or omega-6 or omega-9 fatty acids, in relation to a food in a small package, the label must include the average serving size of the food and the maximum, minimum or average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids present in a serving of the food. The label must also include the average quantity of the claimed nutrient present.

If a claim requiring nutrition information is made about omega-3 fatty acids in relation to a food in a small package, the label must include the average serving size of the food and the maximum, minimum or average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids present in a serving of the food. In addition, the label must include the type and amount of omega-3 fatty acids in a serving of the food, namely alpha-linolenic acid, docosahexaenoic acid or eicosapentaenoic acid, or a combination of these.

Example

Brand X is a monounsaturated spread

If this claim is made on food in a small package, the label must include the average serving size of the food and the quantity of saturated fatty acids, monounsaturated fatty acids, polyunsaturated fatty acids and trans fatty acids in a serving of the food.

E.g. Quantity per 10 g serving – saturated fatty acids: 1.3 g max; monounsaturated fatty acids: 3.2 g min; polyunsaturated fatty acids: 1.2 g min; trans fatty acids: 0.04 g max.

6.4 Fat-free claims in relation to food in small package

If a fat-free claim is made about a food in a small package, the label must include the average serving size of the food and the average quantity of energy as well as the average quantity of fat present per serving of the food.

6.5 Sodium, salt and potassium claims in relation to food in a small package

If a claim requiring nutrition information is made about sodium salt or potassium in relation to a food in a small package, the label must include the average serving size of the food and the minimum, maximum or average quantity of potassium and sodium present per serving of the food.

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

Attachment 1 – Definitions for nutrition labelling

The definitions that apply to nutrition labelling are provided in clause 1 of Standard 1.2.8 – Nutrition Information Requirements. Further definitions that apply to the Code as a whole are provided in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions. Some of these will be relevant for nutrition labelling, such as ‘average quantity’, ‘label’, and ‘nutrition information panel’. The definitions in Standard 1.2.7 also apply when a defined term is used in Standard 1.2.8, unless the contrary intention appears.

Some of the definitions in Standard 1.2.8 may differ from definitions of similar terms provided in other standards, e.g. ‘sugars’, which is also defined in Standard 2.8.1 for different purposes.

Act

Act is defined in clause 2 of Standard 1.1.1 as the Act, as amended or, as the case may be, Ordinance of a State, Territory, External Territory, Commonwealth or New Zealand, under the authority of which the Code is enforced.

Average quantity

Average quantity is defined in Standard 1.1.1, as follows:

average quantity in relation to a substance in a food is the quantity determined from one or more of the following:

- (a) the manufacturer’s analysis of the food; or
- (b) calculation from the actual or average quantity of nutrients in the ingredients used;
or
- (c) calculation from generally accepted data;

which best represents the quantity of the substance that the food contains, allowing for seasonal variability and other known factors that could cause actual values to vary.

Biologically active substance

For the purpose of nutrition labelling, a biologically active substance means a substance, other than a nutrient, with which health effects are associated.

An example of a biologically active substance may be phytoestrogens. Biologically active substances could be either naturally occurring or added to the food.

Carbohydrate

Two definitions of carbohydrate have been included in Standard 1.2.8 to permit the calculation of carbohydrate as either carbohydrate by difference or as available carbohydrate.

Carbohydrate by difference is calculated by subtracting from 100, the average quantity expressed as a percentage, of water, protein, fat, dietary fibre, ash, alcohol and if quantified or added to the food⁷, any other unavailable carbohydrate and the substances listed in column 1 of Table 2 to subclause 2(2) of Standard 1.2.8.

⁷ ‘Added to the food’ means added in any amount as an additive or ingredient to the final food.

Available carbohydrate is calculated by summing the average quantity of total available sugars and starch, and if quantified or added to the food, any available oligosaccharides, glycogen and maltodextrins.

Dietary fibre

Dietary fibre is defined in clause 1 of Standard 1.2.8 as that fraction of the edible part of plants or their extracts, or synthetic analogues that are resistant to the digestion and absorption in the small intestine, usually with complete or partial fermentation in the large intestine; and promote one or more of the following beneficial physiological effects:

- laxation
- reduction in blood cholesterol
- modulation of blood glucose.

Dietary fibre includes polysaccharides, oligosaccharides (degree of polymerisation > 2) and lignins.

See clause 18 of Standard 1.2.8 for methods of analysis.

Endorsement

Endorsement is defined in clause 2 of Standard 1.2.7, as a nutrition content claim or a health claim that is made with the permission of an endorsing body.

Energy

'Average energy content' is defined in clause 1 of Standard 1.2.8 as the figure calculated in accordance with subclause 1(3). The figure is calculated on the basis of the amount of each food component in 100 g of the food and the energy factor of that food component.

'Average energy content' is to be calculated by multiplying the average amount of each food component per 100 grams of the food by the energy factor for that food component and summing the amounts calculated for each using the following formula:

$$\text{Average energy (kJ/100 g)} = \sum W_i F_i$$

Where –

W_i means the average weight of the food component (g/100 g food) and
 F_i means the energy factor assigned to that food component (kJ/g).

Energy factor is defined in subclause 2(1) of Standard 1.2.8. Specific energy factors for each food component are given in the tables to subclause 2(2) of Standard 1.2.8 and are also in Attachment 4 of this User Guide.

Fat

A definition of 'fat' has been included in Standard 1.2.8 to make it clear that the term 'fat' in Standard 1.2.8 means total fat. This definition describes total fat for the purposes of Standard 1.2.8 and does not differentiate between fats, oils or other lipid components of foods.

Health claim

Health claim is defined in clause 2 of Standard 1.2.7 as a claim which states, suggests or implies that a food or property of food has, or may have, a health effect.

Nutrition content claim

Nutrition content claim is defined in clause 2 of Standard 1.2.7. It means a claim about:

- (a) the presence or absence of –
 - (i) a biologically active substance; or
 - (ii) dietary fibre; or
 - (iii) energy; or
 - (iv) minerals; or
 - (v) potassium; or
 - (vi) protein; or
 - (vii) carbohydrate; or
 - (viii) fat; or
 - (ix) the components of any one of protein, carbohydrate or fat; or
 - (x) salt; or
 - (xi) sodium; or
 - (xii) vitamins; or
- (b) glycaemic index or glycaemic load;

that does not refer to the presence or absence of alcohol, and is not a health claim.

Monounsaturated fatty acids

Monounsaturated fatty acids means the total of cis-monounsaturated fatty acids and declared as monounsaturated fat.

The definition refers to those fatty acids that have a chemical structure containing one double bond in the cis configuration. If these are declared, they must be declared as 'monounsaturated' under the heading for 'fat' in the nutrition information panel (except on small packages – refer to section 6 of this User Guide).

Polyunsaturated fatty acids

Polyunsaturated fatty acids means the total of polyunsaturated fatty acids with cis-cis-methylene interrupted double bonds and declared as polyunsaturated fat.

The definition refers to those fatty acids that have a chemical structure containing two or more double bonds in the cis configuration. If these are declared, they must be declared as 'polyunsaturated' under the heading for 'fat' in the nutrition information panel (except on small packages – refer to section 6 of this User Guide).

Saturated fatty acids

Saturated fatty acids means the total of fatty acids containing no double bonds and declared as saturated fat.

The definition refers to those fatty acids that have a chemical structure containing no double bonds. These must be declared as 'saturated' under the heading for 'fat' in the nutrition information panel (except on small packages – refer to section 6 of this User Guide).

Sugars

For the purposes of Standard 1.2.8, sugars means monosaccharides and disaccharides.

Trans fatty acids

Trans fatty acids means the total of unsaturated fatty acids where one or more of the double bonds are in the trans configuration and declared as trans fat.

The definition refers to those fatty acids that have a chemical structure in which one or more of the double bonds is in the trans configuration. If these are declared, they should be declared as 'trans' under the heading for 'fat' in the nutrition information panel (except on small packages – refer to section 2.3 of this User Guide).

Attachment 2 – Deriving Food Composition Data

There are a number of methods that are commonly used to derive food composition data to develop a nutrition information panel. These include:

- laboratory analysis of the food
- the FSANZ Nutrition Panel Calculator (free online software)
- other commercial software
- food composition tables or databases.

Laboratory analysis

Foods can be analysed directly, preferably by laboratories accredited by either the National Association of Testing Authorities (NATA) or International Accreditation New Zealand (IANZ).

The advantage of having the nutrient composition of a food analysed by a laboratory is that this may provide verification of the nutrient composition of the product in question. However, it is important to bear in mind that the representativeness of the results may depend on the sampling protocol, and the accuracy of the results may depend on the analytical methods used and the complexity of the product.

A well designed sampling protocol should define the number and size of the food samples to be collected, collection points, sample preparation and storage, as well as the specific nutrients to be analysed and methods of analysis. For more information regarding the preparation of a sampling protocol, see:

Greenfield, H. and Southgate, D.A.T. (2003) Food composition data. 2nd edition. Rome: Food and Agriculture Organization of the United Nations.

Analysis of total dietary fibre and specifically named fibre content of food

In the case of determining the total dietary fibre content and the content of specifically named fibres, analytical methods are explicitly prescribed in clause 18 of Standard 1.2.8. Specific methods are listed for total dietary fibre, total dietary fibre (including all resistant maltodextrins), inulin and fructooligosaccharide, inulin and polydextrose. In addition, added resistant maltodextrins would need to comply with Standard 1.3.4 – Identity and Purity.

Nutrition Panel Calculator

The Nutrition Panel Calculator (NPC) is a free on-line tool designed to assist food businesses to calculate the average nutrient content of their food products and to prepare a nutrition information panel as required by Standard 1.2.8. After certain information about your custom ingredients or food product is entered into the program, the NPC will automatically generate a nutrition information panel for energy and the six mandatory nutrients – protein, fat, saturated fat, carbohydrate, sugars, and sodium.

The NPC, a Quick Start User Guide and accompanying full Explanatory Notes can be accessed from FSANZ's website: <http://www.foodstandards.gov.au>.

The NPC is supported by a food composition database (the NPC database 2011), which contains nutrient data for more than 2500 foods/ingredients. The NPC database contains the most up-to-date and relevant data available at the time of release, sourced from several previously published Australian food composition databases including NUTTAB (**NUT**rient **TAB**les) (mainly NUTTAB 2010) and AUSNUT (**AUS**tralian food and **NUT**rient database) (mainly AUSNUT 2007)

databases. NUTTAB is Australia's reference nutrient database. AUSNUT is a survey database that contains nutrient values for foods consumed during national nutrition surveys. Neither of these databases was designed for the purposes of calculating nutrition information panels.

NPC Limitations

There are some specific limitations which apply to using the NPC to calculate nutrition information panel values. These limitations include:

- the NPC expresses carbohydrate as available carbohydrate (see clause 1 of Standard 1.2.8)
- the NPC does not make provision for the substances listed in Table 2 to subclause 2(2), which must be declared separately in the nutrition information panel if quantified or added to a food when available carbohydrate is used (refer to subclause 5(6B) of Standard 1.2.8)
- the results calculated for energy do not take into account the specific energy factors which apply to organic acids or to polyols and polydextrose if quantified or added to a food when available carbohydrate is used
- the NPC is not designed to calculate the nutrient composition of fried foods. It is recommended that you use laboratory analysis for these foods
- the NPC cannot take into account the effect on nutrients of a range of other processing steps such as washing and salting (except where specifically stated)
- the NPC does not contain a comprehensive set of nutrient data for food additives and processing aids.

Further information on the use and limitations of the NPC can be found in the NPC Explanatory Notes, available on the FSANZ website.

Other commercial software

There are a small number of software companies that develop other nutritional analysis software.

Food composition databases

Previously, paper-based food composition tables were published in Australia by FSANZ and were available to calculate the average quantity of specific nutrients in 100 g of the food. These paper-based publications are not produced by FSANZ anymore; however, they are available as electronic data files (*Online and Electronic Versions*), (NUTTAB2010 and AUSNUT 2007) and can be downloaded from FSANZ's website at: <http://www.foodstandards.gov.au>.

In New Zealand, a paper-based food composition publication is still available. *The Concise New Zealand Food Composition Tables*, 8th edition (New Zealand Institute of Plant and Food Research, 2009) contains New Zealand nutrient data for around 900 foods (both per 100 g and per common serving sizes). It is available from the New Zealand Institute of Plant and Food Research Limited (previously known as New Zealand Institute for Crop and Food Research) website at the following link: <http://www.foodcomposition.co.nz/concise-tables>. The New Zealand Institute of Plant and Food Research also provides electronic database files; these are discussed below.

The *NUTTAB 2010* electronic database files contain approximately 2190 foods and up to 195 nutrient values for each food. The *NUTTAB 2010 Online Version* allows users to search by individual foods, food groups or individual nutrients and is available from the FSANZ website. The electronic database files comprise six core .txt or .tab files, which contain nutrient data for all foods within the publication. There are also files containing ancillary information on each food, such as the food's common and scientific name, a description of the food, and information about the sample origin (including date and place of purchase where relevant) etc. for all foods contained in the NUTTAB 2010 publication. Files relating to recipe foods and retention factors have also been

included. *NUTTAB* is developed for reference purposes and not specifically for calculating values for nutrition information panels.

The *NUTTAB* electronic database undergoes regular revisions to incorporate updated analytical data and include foods which are new to the market or have increased in popularity since the last edition. Users should note however, that derivation of energy values in *NUTTAB* 2010 may not conform to the requirements of the Code. You are advised to recalculate energy according to the requirements of Standard 1.2.8.

AUSNUT 2007 is FSANZ's most recent survey-specific nutrient database developed to support the 2007 National Children's Nutrition and Physical Activity survey. *AUSNUT 2007* contains data for 4,225 foods and dietary supplements and 37 nutrients, expressed per 100 g edible portion for foods and per 100 dosage units for dietary supplements. Due to the techniques used to develop this survey database and because the derivation of energy values may not conform with the requirements of the Code, it is not appropriate to use for labelling purposes in its current form. Where appropriate, FSANZ adapted some of *AUSNUT 2007* for use in the NPC.

AUSNUT Special Edition was used as the database to support the NPC, however it was replaced in 2011 with a new dataset called the *NPC database 2011*. The *NPC database 2011* has been updated to include nutrient data for 84 previously unpublished foods/ingredients (e.g. sodium containing food additives). The *NPC database 2011* file can be downloaded from the FSANZ website.

New Zealand food composition data are also available electronically from a number of sources including *FOODfiles 2012 Version 01: New Zealand Food Composition Database* that includes data on more than 2600 foods and 70 nutrients, expressed per 100 g edible portion and per common serving size. The New Zealand *FOODfiles 2012 Version 01* contains six files, which are available in two formats: as tilde delimited ASCII text files and as Microsoft Excel™ files. The New Zealand *FOODfiles 2012 Version 01* contains the complete presentation of 70 core components for 2600 foods in the Standard Version and 342 components for more than 2600 foods in the Unabridged Version (however, this version does not contain values for every single component for every single food).

Further details regarding how to download the New Zealand *FOODfiles 2012 Version 01* can be found on the New Zealand Institute of Plant and Food Research website:
<http://www.foodcomposition.co.nz/foodfiles>.

Overseas references

Overseas sources should generally only be used to supplement missing data from Australian or New Zealand sources as country differences in regulatory requirements, agricultural conditions/practices, formulations, food nomenclature, and retail presentation may result in values that do not represent the locally made product.

Food composition data are available from overseas text references including:

- UK Food Standards Agency - McCance and Widdowson's The Composition of Foods Integrated Dataset (CoF IDS), 2002. www.food.gov.uk/science/dietarysurveys/dietsurveys/
- Danish Food Composition Databank, version 7.01, March 2009.
www.foodcomp.dk
- United States Department of Agriculture National Nutrient Databank for Standard Reference, release 25, 2012.
www.ars.usda.gov/main/site_main.htm?modecode=12-35-45-00

Users are advised to check the introductory pages for differences that may impact on compliance with the Code.

Limitations

There are a number of limitations in using food composition tables and databases that you should consider when calculating the values for a nutrition information panel.

The nutrient values presented in food composition tables and databases are mostly estimates that attempt to provide representative data. Foods, being biological materials, vary greatly in their nutrient composition.

For primary produce, the variability in nutrient composition may be due to different methods of plant and animal husbandry, storage, transport, and marketing. Processed foods, despite being subject to quality control during production, also vary because of differences in the composition of ingredients and changes in formulation and production.

Also, the nutrient data differ significantly in quality depending on the different ways in which they are obtained. Data may be original analytical values that are derived by direct analysis of the food or from a recipe. Or, they may simply be estimates worked out using similar foods or another form of the same food, e.g. values for boiled peas are used for steamed peas. Also, data for some recipe foods may be calculated by using the ingredients and correcting for preparation factors.

It is important for users to read the explanatory sections of these databases to determine whether the expression of the nutrients is compatible with their needs and the requirements of the Standard. This is particularly so for carbohydrate and energy.

Most food composition tables and databases express carbohydrate as the sum of total sugars, starch and perhaps other carbohydrate components such as dextrans, available oligosaccharides and sugar alcohols (polyols). This is similar to the definition of available carbohydrate used in the Code for the inclusion of polyols. Very few data sources calculate carbohydrate by difference, or give sufficient data for you to calculate carbohydrate by difference, for example, not many tables list the ash content of foods.

Food composition tables and databases generally do not include food components such as unavailable carbohydrates, polyols or polydextrose. Therefore, when added or occurring in significant quantities, average amounts of these food components need to be known or determined by analysis. The average quantity of carbohydrate can still be calculated by difference (according to the definition given in Standard 1.2.8), providing the quantities of the other food components are subtracted.

A further limitation with using food composition tables and databases is that energy content is usually calculated by application of energy factors to the macronutrients that are the same as or similar to those shown in the Standard. The most likely variation in use of energy factors will be for carbohydrate (16 or 17 kJ/g), and dietary fibre (0 or 8 kJ/g).

A data source may be compatible with Standard 1.2.8 if:

- carbohydrate is calculated by difference, or data are shown for all components of the calculation (water, protein, fat, dietary fibre, ash and alcohol)
- carbohydrate is calculated using the Code definition of available carbohydrate
- energy is calculated using the same energy factors as listed in Standard 1.2.8 for protein, carbohydrate, fat, dietary fibre and alcohol.

References

Greenfield, H. and Southgate, D.A.T. (2003) Food composition data. 2nd edition. Rome: Food and Agriculture Organisation of the United Nations.

Attachment 3 – Reference values for percentage of daily intake (%DI)

Food component	Reference value	Basis for reference values	Source of health recommendations for reference amount
Energy	8700 kJ (2100 kcal)	Based on the average energy consumption/day for adults and children over 4 years of age in Australia and New Zealand.	1995 National Nutrition Survey, Australia ¹ 1991 Life in NZ Survey ²
Protein	50 g	Protein based on average for RDI for men (55 g) and non-pregnant, non-lactating women (45 g).	Australian RDI, as per NHMRC 1991 ³
Fat	70 g	Fat based on 30% of energy	CDHSH 1994 ⁴
Saturated fatty acids	24 g	Saturated fat based on 10% of energy.	CDHSH 1994 ⁴
Carbohydrate	310 g	Carbohydrate based on balance of energy and cross-referenced with survey data and international targets (60% of energy).	No RDI or targets set. US value for labelling set at 60 per cent of energy
Sugars	90 g	Sugars based on 17.5 per cent of energy.	<i>Dietary Guidelines for Australian Adults</i> . NHMRC, 2003 ⁶
Dietary fibre	30 g	Dietary fibre based on 30 g per day.	Better Health Commission Target, Commonwealth Dept Health, 1987 ⁵
Sodium	2300 mg		Australian RDI, as per NHMRC 1991 ³

References

1. Australian Bureau of Statistics (1998) *National Nutrition Survey: Selected Highlights, Australia 1995*. Australian Bureau of Statistics, Canberra.
2. Horwath C, Parnell W, Birkbeck J, Wilson N, Russell D and Herbison P. (1991) *Life In New Zealand Survey Commission Report: Volume VI: Nutrition*. University of Otago, Dunedin.
3. National Health and Medical Research Council (1991) *Recommended Dietary Intakes for Use in Australia*. AGPS Canberra.
4. Commonwealth Department of Human Services and Health (1994) *Better Health Outcomes for Australians. National Goals, Targets and Strategies for Better Health Outcomes into the Next Century*. Commonwealth Department of Human Services Canberra.
5. Commonwealth Department of Health. *Towards Better Nutrition for Australians. Report of the Nutrition Taskforce of the Better Health Commission*. AGPS Canberra, 1987.
6. NHMRC (2003) *Dietary Guidelines for Australian Adults*. NHMRC, Commonwealth of Australia.

Attachment 4 – Energy factors in relation to food components

Table 1 to subclause 2(2), Standard 1.2.8 – Nutrition Information Requirements

Food Component	Energy Factor (kJ/g)
Alcohol	29
Carbohydrate (excluding unavailable carbohydrate)	17
Unavailable carbohydrate (including dietary fibre)	8
Fat	37
Protein	17

Table 2 to subclause 2(2), Standard 1.2.8 – Nutrition Information Requirements

Food Component	Energy Factor (kJ/g)
Erythritol	1
Glycerol	18
Isomalt	11
Lactitol	11
Maltitol	13
Mannitol	9
Organic acids	13
Polydextrose	5
Sorbitol*	14
D-Tagatose	11
Xylitol	14

* Energy factor for sorbitol taken as average of calculated range determined with or without ingestion of other foods.



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Percentage Labelling of Food

User Guide

To

Standard 1.2.10 – Characterising Ingredients and Components of Food

December 2013

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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 and 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 help 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 this User Guide

The purpose of this User Guide is to provide an overview of Standard 1.2.10 – Characterising Ingredients and Components of Food.

The User Guide also provides an overview on the identification of the ingredients and components in food products that may be defined as ‘characterising’ and, therefore, on the determination of the proportion of those ingredients or components that need to be declared. You will also find worked examples for a range of common foods.

1. Terms in this User Guide

1.1 What is percentage labelling?

The labelling of the proportion of characterising ingredients and components is often referred to as 'percentage labelling'.

'Percentage labelling' means stating on a food label the proportion of a characterising ingredient or component contained in that food. This expression is used throughout this guide to describe the declaration of the proportion of characterising ingredients or characterising components in food.

Percentage labelling is designed to help consumers make informed choices about the foods they buy by allowing them to compare how much of a characterising ingredient or component is present in similar products.

Code reference

The labelling of the proportion of characterising ingredients and components of food is regulated by Standard 1.2.10.

Standard 1.2.10 requires that percentage labelling information for characterising ingredients and characterising components be provided, unless the food does not contain a characterising ingredient or component, or unless the food is specifically exempt from this requirement (refer to section 2.4 – *Foods that are specifically exempt from percentage labelling*).

1.2 What is a characterising ingredient or characterising component?

A **characterising ingredient or characterising component** is an ingredient or component that is:

- mentioned in the name of a food
- usually associated with the name of a food by the consumer
- emphasised on the label of a food in words, pictures or graphics.

There are situations where ingredients are not regarded as 'characterising' – these are discussed under section 3.4 – *Ingredients that do not require percentage labelling*.

Examples of characterising components

Milk fat is a component of many ingredients derived from milk. Such ingredients include milk, milk powder, cream, butter, butter oil etc. Milk fat forms only a part of each of these ingredients.

Cocoa solids are components of chocolate, contained in many ingredients derived from cocoa beans. Such ingredients include cocoa mass, cocoa, cocoa butter, cocoa liquor etc. Cocoa solids form only a part of each of these ingredients.

Milk solids are derived from milk and include milk fat, milk powder, lactose, milk protein, casein, whey protein, etc

2. Application of percentage labelling requirements to different foods

When percentage labelling is required, and how it must be provided, depends on the purpose of the food, i.e., whether or not the food is designated for retail sale or for catering purposes, and whether any exemptions apply from the requirement for the food to bear a label.

Code Definition

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.

2.1 Food for retail sale

You must provide percentage labelling information on the label of food for retail sale unless any of the exemptions under subclause 2(1) of Standard 1.2.1 or subclause 2(4) of Standard 1.2.10 (as specified in the following section) apply. However, if the food is unpackaged, or made and packaged on the premises from which it is sold and none of the exemptions under subclause 2(4) of Standard 1.2.10 apply to that food, then the relevant percentage labelling information must be either displayed on or in connection with the display of the food, or provided to the purchaser if requested (see subclause 2(3) of Standard 1.2.10).

2.2 Food for catering purposes

Foods for catering purposes are exempt from the requirement to provide percentage labelling information under subclause 2(4) of Standard 1.2.10. However, if specifically requested by the purchaser or relevant authority, the food for catering purposes must be accompanied by enough information for the purchaser to comply with the compositional and labelling requirements of the Code (in accordance with subclause 6(4) of Standard 1.2.1). This information can be provided in documentation accompanying the food rather than on the label on the food.

2.3 Food not for retail sale etc

Specific requirements apply to foods other than foods for retail sale, for catering purposes or supplied as an intra company transfer. Where a purchaser or relevant authority requests, these foods must be accompanied by sufficient information to enable the purchaser to comply with the labelling and composition requirements in the Code. Where requested, this information must be in writing (see clause 4 of Standard 1.2.1).

Code reference

Standard 1.2.1 sets out the application of labelling and information requirements.

Also refer to section 5 – *Where are proportions of characterising ingredients and components required to be declared?*

2.4 Foods that are specifically exempt from percentage labelling

Some foods are exempt from percentage labelling requirements because they are either specifically exempt in subclause 2(4) of Standard 1.2.10, or because they do not have a characterising ingredient or component (refer to Attachment 1 for details).

The following foods are specifically exempt from percentage labelling requirements:

- single ingredient foods
- food packaged in the presence of the purchaser, e.g. salad sold from a deli service case
- food for catering purposes, e.g. food supplied to restaurants and hospitals
- food delivered packaged and ready for immediate consumption at the express order of the purchaser, e.g. home delivered pizza
- prepared filled rolls, sandwiches, bagels and similar products
- food sold at fund raising events, e.g. cake stalls, school fêtes
- alcoholic beverages defined in Standards 2.7.2 to 2.7.5 of the Code
- beverages containing no less than 0.5% alcohol by volume that are not standardised in Standards 2.7.2 to Standard 2.7.5 of the Code
- food standardised in Standard 2.9.1 – Infant Formula Products
- food in small packages with a surface area of less than 100 cm²
- cured and/or dried meat flesh in whole cuts or pieces¹, e.g. leg and shoulder ham, prosciutto, pickled pork, corned beef, pumped mutton and lamb.

Food for special medical purposes is also exempt from percentage labelling requirements.

Code reference

Subclause 2(4) of Standard 1.2.10 lists foods exempt from percentage labelling.

Paragraph 3(1)(d) of Standard 2.9.5 – Food for Special Medical Purposes exempts food for special medical purpose from percentage labelling.

Please note: ‘cured and/or dried meat flesh in whole cuts or pieces’ is defined in Standard 2.2.1 – Meat and Meat Products. This definition requires a minimum of 160 g/kg of meat protein on a fat-free basis. Meat and meat products complying with this definition are exempt from percentage labelling requirements. You may supply other meat products that are cured and/or dried as whole cuts or pieces. However if they have less than 160 g/kg of meat protein on a fat-free basis then they may not be exempt from percentage labelling requirements.

3. When is an ingredient or component ‘characterising’?

As a food business, you must decide which of the ingredients and components in your product characterise the food according to the definitions in Standard 1.2.10. There are three situations where ingredients and components are considered ‘characterising’:

- The ingredient, category of ingredients, or component, is mentioned in the name of the food.
- The ingredient, category of ingredients or component, is usually associated with the name of the food by the consumer.
- The ingredient, category of ingredients, or component, is emphasised on the label of a food in words, pictures, or graphics.

For information about ingredients for which you do not need to provide percentage labelling information, refer to section 3.4 – *Ingredients that do not require percentage labelling*. For information on foods that are exempt from percentage labelling refer to section 2.4 – *Foods that are specifically exempt from percentage labelling*. You can also look at Attachment 1 for examples of foods that do not have characterising ingredients or components.

The three situations where ingredients and components are considered ‘characterising’ are described in detail below.

3.1 The ingredient or component is mentioned in the name of a food

Characterising ingredient

In the simplest cases, an ingredient mentioned in the name of the food is the characterising ingredient and you should declare the proportion of it. Examples include ‘strawberry’ in a product called ‘Strawberry Yoghurt’, and ‘cherry’ in ‘Cherry Pie’. In these examples, the characterising ingredient appears in the name of the food.

Example: A ‘product called ‘Vegetables in Sweet and Sour Sauce’

In this case, the characterising ingredients would be the vegetables (a category of ingredients) because the word ‘vegetables’ is mentioned in the name of the food. As none of the exemptions are likely to apply, you should declare the proportion of the total amount of vegetables in the product. However, you may also choose to declare the proportions of the individual vegetables in the product.

Characterising component

In a similar way, if the name of a component is mentioned in the name of a food, you should declare the proportion of that component.

3.2 The ingredient or component is usually associated with the name of a food by the consumer

Characterising ingredient

This is most likely to apply when you include a customary name on a product.

Example

'Chilli con Carne', 'Spring Rolls', 'Pesto' and 'Supreme Pizza' are customary names – these names do not mention specific ingredients, but consumers may have expectations about the key ingredients in these foods.

As a guide for deciding which ingredients might be associated with a food identified by a customary name, it is helpful to consider what an ingredient-based description of the food would be, or how you would describe the food without using the customary name. (Note that under Standard 1.2.2 – Food Identification Requirements, a prescribed name or a name or description sufficient to indicate the true nature of the food must be included on the label on a package of food.)

Example

Ingredient-based descriptions for the foods listed above might be:

Chilli con Carne: Chilli flavoured minced beef with kidney beans

Spring Rolls: Vegetables and a small amount of meat in a deep-fried light pastry

Minestrone Soup: A broth containing pasta, beans, and vegetables

Supreme Pizza: Meat, cheese and vegetables on a bread dough base

Considering the ingredients mentioned in the description of a food will help you decide which ingredients will need percentage labelling. Based on the descriptions in the examples above, it may be appropriate to declare the proportion of the following ingredients:

- beef and beans in **chilli con carne**
- vegetables in **spring rolls**
- vegetables and pasta in **minestrone soup**
- meat in the **supreme pizza** topping.

It is important to consider carefully whether these descriptions and declarations would accurately reflect a consumer's expectations, eg:

- you may decide that other ingredients also characterise the foods and therefore include percentage labelling for them; or
- you may simply choose to percentage label more than one ingredient because you want consumers to know more about what's in your food.

Characterising component

Some examples of when a component of food is usually associated with the name of the food by the consumer are listed below.

Milk fat in ice cream

The quantity of milk fat in ice cream plays an important role in determining the quality of ice cream, along with other factors such as total solids and the degree of aeration. The **proportion of milk fat** is likely to influence a customer's choice when deciding whether to buy the ice cream.

Milk fat in ice cream is likely to come from several ingredients including cream, whole milk and/or whole milk powder. You should declare the **total proportion of milk fat** in the ice cream because it provides more relevant information to consumers than if you declared the proportion of all the separate ingredients that contain milk fat.

Milk fat in cream

Different cream products have a wide range of milk fat content. The fat in cream is the component consumers usually associate with the name of the food, and may influence their decision to choose one particular product over another. You should label cream with the **proportion of milk fat**.

Cocoa solids in chocolate

The quantity of cocoa solids in chocolate plays an important role in determining the quality of the chocolate because in some products, fats and oils and/or food additives may replace part of the cocoa solids. Informing consumers about the cocoa solids content of chocolate enables them to make a more informed choice about what they are buying. Cocoa solids in chocolate are the component consumers usually associate with the name of the food. Cocoa solids in chocolate are likely to come from several ingredients including cocoa mass, cocoa, and cocoa butter. Declaring the proportion of the characterising component (cocoa solids) is likely to provide consumers with more information than declaring the proportion of the separate ingredients containing the cocoa solids.

3.3 The ingredient or component is emphasised on the label of a food in words, pictures or graphics

Characterising component

If you emphasise a component of a food on the label in words, pictures or graphics, the emphasised component is a characterising component for which a declaration of the proportion may be required.

Characterising ingredient

Often manufacturers emphasise a particular ingredient using words, pictures or graphics. If you do this, the emphasised ingredient is a characterising ingredient for which a declaration of the proportion may be required (note that there are situations where ingredients are not regarded as 'characterising' – these are discussed under section 3.4 – *Ingredients that do not require percentage labelling*).

Example: 'improved flavour – with real fruit'

If the label on a rice cream dessert states *improved flavour – with real fruit*, the fruit content is being emphasised and therefore you may need to declare the percentage of fruit.

Example: 'extra cheese'

If the label on a frozen pizza emphasises that it has 'extra cheese', then you may need to declare the percentage of cheese.

Example: a graphic of a beehive and a jar of honey

If the label on a package of biscuits includes a picture of a beehive and a jar of honey, you may need to declare the percentage of honey in the biscuit.

Code reference

The definitions of characterising ingredient and characterising component are in clause 1 of Standard 1.2.10.

When is an ingredient shown on the label not an 'emphasised' ingredient?

Complying with other labelling requirements in the Code does not of itself constitute 'emphasis' of the ingredient for the purposes of the definition of characterising ingredient or characterising component. For example, if you label a product with a mandatory warning or advisory statement or declaration in accordance with Standard 1.2.3, the statement alone does not trigger a percentage labelling requirement for that particular ingredient.

Example

Providing an allergen labelling declaration in accordance with Standard 1.2.3 by noting that your product contains 'peanuts' would not trigger a percentage labelling requirement for peanuts.

Code reference

Subclause 1(2) in Standard 1.2.10 states that compliance with other labelling requirements elsewhere in the Code does not of itself constitute emphasis for the purposes of the definition of characterising ingredient or characterising component.

Similarly, providing a minimal description of a food in addition to a trade name in order to indicate the true nature of the food would not of itself constitute 'emphasis' of the ingredient. The Code requires that you include a name or description of the food sufficient to indicate the true nature of the food on the label unless a prescribed name applies (Standard 1.2.2 – Food Identification Requirements). Sometimes selling a food under a trade name may not be sufficient to indicate the food's true nature. Accordingly, you may need to label the food with a description of the food, in addition to the trade name.

Fulfilling the minimum requirements for describing the food's true nature is not, in itself, considered emphasis for the purposes of the definitions of characterising ingredient and characterising component. In addition, a characterising ingredient does not include an ingredient or category of ingredients which, while mentioned in the name of the food, is not such as to govern the choice of the consumer, because the variation in the quantity is not essential to characterise the food, or does not distinguish the food from similar foods. However, if the description goes further than the minimum requirements, and places emphasis on a particular ingredient, then that ingredient should be percentage labelled.

Example 1 – A prepared meal sold under the trade name of Instant Meal®

Instant Meal® is not sufficient to indicate the true nature of the food. To fulfil the requirements of the Code, this product must also bear a description sufficient to indicate the food's true nature.

Two ways of describing the food could be:

Instant Meal® - mango chicken with vegetables and wild rice mix

OR

Instant Meal® - extra chicken strips with mango sauce, complemented with wild rice and vegetables

The first description is a minimal one that clearly indicates the true nature of the food but without particularly emphasising any ingredient. This description does not constitute emphasis and may not *of itself* trigger the requirements for percentage labelling. Any pictures and graphics present on the label of a food (not described in the example) must also be considered in determining whether percentage labelling is required.

The second description of this meal contains an adjective that enhances the description of the chicken. The enhanced description may trigger the requirement to declare the percentages of the (extra) chicken. Once again, emphasis on the label of food, including for example any pictures and graphics, must also be considered in determining whether percentage labelling is triggered.

Example 2 – A confectionery bar sold under the trade name of Bongo Bar®

Bongo Bar® is not sufficient to indicate the true nature of the food. To fulfil the requirements of the Code, this food must also have on its label a description sufficient to indicate its true nature.

Two ways of describing the food could be:

Bongo Bar® -layers of wafer biscuit and caramel covered in milk chocolate

OR

Bongo Bar® -layers of wafer biscuit with caramel covered in smooth delicious milk chocolate.

The first description is a minimal one that clearly indicates the true nature of the food but without particularly emphasising any ingredient. This description does not constitute emphasis and would not *of itself* trigger the requirements for percentage labelling. Any pictures and graphics present on the food packaging (not described in the example) must also be considered in determining whether percentage labelling is required.

The second description contains adjectives that enhance the description of one of the three ingredients mentioned - chocolate. The enhanced description may trigger the requirement to declare the percentages of the smooth delicious milk chocolate contained in the product. Once again, any pictures and graphics, must also be considered in determining whether percentage labelling is triggered.

In some cases, you may not need percentage labelling of an ingredient on the label because there is no special emphasis of that ingredient.

Examples of ingredients which may not be considered to be emphasised are when:

- the pictorial representation is of the whole food as offered for sale
- the pictorial representation is in the form of a serving suggestion
- the pictorial representation shows all of the major ingredients without emphasising any particular ingredient
- the pictorial representation describes the agricultural origin of certain ingredients without emphasising the quantity of those ingredients (such as a picture of a sheaf of wheat on the label of a loaf of bread).

However, you need to take care in all of these cases when deciding whether or not an ingredient is emphasised (triggering the requirement for percentage labelling), particularly when you use a pictorial or graphic. You need to make decisions regarding percentage labelling in these situations on a case-by-case basis, taking into consideration any emphasis created by the pictures, graphics and wording on the label.

3.4 Ingredients that do not require percentage labelling

Some ingredients or foods are specifically excluded from the definition of characterising ingredient, and therefore do not require percentage labelling. Ingredients not regarded as characterising ingredients are:

- an ingredient or a category of ingredients used in small quantities for flavouring
- an ingredient that is the sole ingredient of a food
- a category of ingredients that comprises the whole of the food
- an ingredient or category of ingredients which, while appearing in the name of the food, is unlikely to affect the choice of the consumer, because the variation in the quantity is not essential to characterise the food, or does not distinguish the food from other foods.

Details about ingredients not regarded as characterising ingredients are provided below.

An ingredient or category of ingredient used in small quantities for the purposes of a flavouring

When you use an ingredient only in small quantities for the purposes of flavouring, you need not provide percentage labelling of that ingredient. This applies even when the ingredient appears in the name of the food.

Example: Instant Vanilla Pudding

The word 'vanilla' appears in the name of the food but it is used in a small quantity for the purpose of flavouring. The definition of characterising ingredients excludes ingredients used in small quantities for the purposes of flavouring, and therefore there may be no need to declare the percentage of vanilla.

Other examples include lemon flavouring in lemonade, herbs and spices such as curry powder in curried egg; chocolate, vanilla and strawberry flavouring used in small quantities for the purpose of flavouring Neapolitan ice cream.

Ingredient that is the sole ingredient of a food

In some cases, the food at the point of sale contains only one ingredient. These ingredients are exempt from being percentage labelled. Examples include packages of orange juice, frozen peas or sultanas.

Category of ingredients that comprises the whole of the food

Where a category of ingredients comprises the whole food, that category of ingredients does not require percentage labelling.

Examples

- fruit in a fresh fruit salad (which has no other ingredients)
- vegetables in frozen mixed vegetables
- dried fruit in mixed dried fruit, with no other ingredients including preservatives.

An exception would be if you made one of the ingredients more prominent and emphasised it on the label with words, pictures or other means e.g. 'Mixed dried fruit with lots of apricots'. You would then need to declare the percentage of the emphasised ingredient, i.e. apricots.

Ingredient or category of ingredients which, while mentioned in the name of the food, is not such as to govern the choice of the consumer, because the variation in the quantity is not essential to characterise the food, or does not distinguish the food from similar foods

There are two tests for this to apply. The first test is that the ingredient, or category of ingredients, must be mentioned in the name of the food. The second test is that the quantity of the named ingredient or category of ingredients in that food does not characterise the food or distinguish the food from other similar comparable foods. As a result, the amount of the ingredient or category of ingredients is unlikely to influence consumer choice and therefore percentage labelling is not required.

Example: Rice crackers

Although 'rice' appears in the name of the food, variation in the quantity of rice in different types and brands of rice cracker is unlikely to affect a consumer's choice. Consequently, you may not need to declare the percentage of rice.

Example: Poppy seed roll

The variation in the quantity of poppy seeds on poppy seed rolls is unlikely to affect a consumer's choice. You may therefore not need to declare the percentage of poppy seeds, although they are mentioned in the name of the food.

Example: Chewing gum

Chewing gum and bubble gum are mostly just flavoured gum. The variation in the quantity of gum in different types of chewing gum and bubble gum is unlikely to affect a consumer who is deciding whether to choose one type of chewing gum or bubble gum over another. You may not need to declare the

percentage of gum on chewing gum.

Code reference

Clause 1 and subclause 2(2) of Standard 1.2.10 explain where an ingredient is considered not to be a characterising ingredient.

Ingredient not present in a food

You need not declare the proportion of an ingredient that is represented in a logo, words, pictures or graphics that is generally understood not to be present in the food. For example, cream in 'Cream Biscuits' is not an ingredient and therefore cannot be a characterising ingredient.

Ingredients containing a characterising component that is declared

When you declare the proportion of a characterising component, there isn't usually any need to make a percentage declaration in relation to the ingredients that contain that characterising component.

Example: ingredients containing cocoa solids

You should declare cocoa solids as a characterising component of chocolate, but there is no need to declare also the percentages of individual ingredients in the chocolate that contains cocoa solids. That is, you may not need to declare the percentage of cocoa, cocoa butter, cocoa liquor, cocoa mass etc. in the chocolate, because you have already declared the percentage of cocoa solids.

However, if you emphasise one or more of the ingredients that contain the characterising component on the label, or if you mention it in the name or description of the food, for example, you would also need to declare that ingredient.

Code reference

Clause 2 of Standard 1.2.10 provides an exemption from percentage labelling of ingredients that contain a characterising component, where the proportion of the component is declared in accordance with Standard 1.2.10.

3.5 Foods where you should declare the proportion of both the characterising ingredients and the components

Some foods may require a percentage labelling declaration for both characterising ingredients and components. You should carefully consider the definitions of characterising ingredient and characterising component when determining which declarations you should make.

Example: Fruit and nut milk chocolate

The fruit and nuts may be characterising ingredients (because they are mentioned in the name of the food); the cocoa solids and milk solids may be characterising components (because they are associated with the name of the food by the consumer).

You could declare the percentage in two ways:

Ingredients: Milk chocolate (sugar, cocoa fat, skim milk powder, milk fat, cocoa mass, lactose, emulsifier (476), flavour), dried fruit (raisins and sultanas) (12%*), nuts (peanuts and cashews) (8%*)

Cocoa solids 25%* Milk solids 2%*

* MINIMUM PERCENTAGES

OR

Ingredients: Milk chocolate (sugar, cocoa fat, skim milk powder, milk fat, cocoa mass, lactose, emulsifier (476), flavour), fruit (raisins and sultanas), nuts (peanuts and cashews)

Cocoa solids 25%* Milk solids 2%* Fruit 12%* Nuts 8%*

*MINIMUM PERCENTAGES

4. How is the proportion of characterising ingredients and components calculated?

4.1 Characterising ingredients

There are generally two methods for calculating the proportion of characterising ingredients.

Either:

1. **the ingoing weight of the characterising ingredient** expressed as a proportion of the total weight of all the ingoing ingredients. This method specifies that you must not include in the total ingoing weight of ingredients any added water or added volatile ingredient that is removed during processing (see Attachment 2).
- or:
2. **the final weight of the characterising ingredient** expressed as a proportion of the total weight of the final food where moisture loss occurs from ingredients during processing (in addition to the moisture loss from added water or volatile ingredients) (see Attachment 2).

Code reference

Clause 3 of Standard 1.2.10 sets out the method for calculating the proportion of characterising ingredients based on their ingoing weight in the food.

Clause 4 of Standard 1.2.10 allows for calculating the proportion of characterising ingredients in the final food where moisture loss occurs from ingredients during processing (in addition to the moisture loss from added water or volatile ingredients).

Using minimum ingoing weight

Standard 1.2.10 allows you to calculate the proportion of characterising ingredients using either a minimum ingoing weight or an actual ingoing weight. Where you use a minimum ingoing weight of the characterising ingredient, you must clearly identify that the percentage is a minimum on the label.

Code reference

Clause 3(5) of Standard 1.2.10 allows for calculating the minimum proportion of characterising ingredients.

Declaration in the Nutrition Information Panel

In certain circumstances, Standard 1.2.10 allows for declaration in the nutrition information panel to meet the requirements of percentage labelling. In this case, the amount you declare will be the average quantity of that characterising ingredient or category of ingredients present in the final food.

Example: A product called 'Fibre Biscuit'

In this example, fibre is mentioned in the name of the food and this provides a trigger for percentage labelling. According to Standard 1.2.10, a declaration in the nutrition information panel (in this case of dietary fibre) will satisfy the requirement for percentage labelling.

Code reference

Clause 4A of Standard 1.2.10 specifies that the proportion of a characterising ingredient declared in a nutrition information panel must be based on an average quantity of the characterising ingredient in the final food.

4.2 Characterising components

The method of calculating the proportion of a characterising component is similar to the second method for calculating the characterising ingredient (see Attachment 2). That is, you calculate the proportion of the characterising component using the final weight of the component over the total weight of the food.

Code reference

Subclause 6(1) of Standard 1.2.10 details how to calculate the proportion of a characterising component.

Using minimum ingoing weight

As with characterising ingredients, Standard 1.2.10 allows you to calculate and declare characterising components as minimum proportions. Where you use a minimum ingoing weight of the characterising component, you must clearly identify that the proportion is a minimum on the label.

Code reference

Subclause 6(3) of Standard 1.2.10 sets out the method for calculating minimum proportions of characterising components.

Declaration in the nutrition information panel

In certain circumstances, Standard 1.2.10 permits a declaration of characterising components in the nutrition information panel. Where you declare the proportion of a characterising component in a nutrition information panel, the amount you declare must be the average quantity of that characterising component present in the final food.

Code reference

Subclause 6(4) of Standard 1.2.10 specifies that the proportion of a characterising component declared in a nutrition information panel must be based on an average quantity of the characterising component in the final food, unless otherwise specified.

4.3 How do I calculate the proportions when my product contains concentrated or dehydrated ingredients and components?

If you use concentrated or dehydrated ingredients when making a product, and the ingredients are reconstituted or rehydrated during the manufacturing process, you may use the weight of the reconstituted or rehydrated ingredient when calculating the proportion of the characterising ingredient.

If the food itself requires reconstituting or rehydrating by the consumer before eating, you may calculate the proportion of the characterising ingredient or characterising component

based on the weight of the food after reconstitution or rehydration. If you use this provision, you should declare on the label that the percentage labelling is based on the reconstituted or rehydrated food. The basis for the percentage labelling must be clearly indicated, for example, if the percentage is based on the food when reconstituted by the consumer according to directions provided on the label, then this must be made clear as part of the percentage labelling.

Other User Guide

For further information on how to declare reconstituted or rehydrated ingredients see the FSANZ User Guide on *Ingredient Labelling of Foods*.

Code reference

Subclause 3(3) of Standard 1.2.10 allows for the calculation of the proportion of a characterising ingredient to be based on the weight of the ingredient after it has been reconstituted during the manufacture of the final food.

Subclauses 3(4) and 5(5) of Standard 1.2.10 outline the calculation and declaration of characterising ingredients based on the final food after reconstitution by the consumer.

Subclause 6(2) and 7(5) of Standard 1.2.10 outline the calculation and declaration of characterising components based on the final food after reconstitution by the consumer.

5. Where are proportions of characterising ingredients or components required to be declared?

5.1 Packaged foods

For packaged foods, you may declare the proportion of characterising ingredients or components anywhere on the label. Unless declared in the nutrition information panel, the proportions must be declared as percentages and are most commonly declared:

- in or near the ingredient list
- near the name of the food.

If you declare the percentage of a characterising ingredient in the ingredient list, the percentage must appear immediately after the name of the ingredient in the ingredient list. The percentage of a characterising ingredient may be rounded to the nearest whole number, or, if the percentage is below 5% it may be rounded to the nearest 0.5 decimal place.

Example: declaring characterising ingredients in the ingredient list

Apricots in natural juice
Ingredients: Apricot halves (60%), natural fruit juice.

Components of a food are not usually listed in the ingredient list, so the percentage labelling for a component would not normally appear in the ingredient list. Instead, you might declare the percentage of characterising components near the name of the food. The percentage of a characterising component may be rounded to the nearest whole number or, if the percentage is below 5%, it may be rounded to the nearest 0.5 decimal place.

Standard 1.2.10 allows you to declare the proportion of a characterising ingredient or characterising component as an average amount per serving and per 100 g or 100 ml in a nutrition information panel. If the proportion of a characterising ingredient or component is declared in the nutrition information panel, it is not required to be declared as a percentage. Refer to section 4 – *How is the proportion of characterising ingredients and components calculated?* for more information on declarations in a nutrition information panel.

Examples

Declaring characterising component near the name of the food

Vanilla ice cream (*with 10% milk fat*)

Declaring characterising component near the ingredient list for ice cream

Ingredients: Cream, skim milk concentrate, whey solids, sugar, water, glucose syrup, emulsifier (471), maltodextrin, vegetable gums (407a, 410, 412), flavour, colour (150).

Milk fat: 10%

Minimum percentage labelling

You may declare the percentage of characterising ingredients and/or components as either:

- the actual percentage, or
- minimum percentage.

If you declare the proportion of a characterising ingredient or component as a minimum percentage, you should indicate clearly that it is a minimum percentage, for example, by asterisking all declared minimum percentages and including an asterisked note at the end of the ingredient list stating 'minimum percentage'.

Examples

Characterising ingredient declared as a minimum percentage near the name of the food

Blueberry muffins (*Contains a minimum of 8% blueberries*)

Characterising ingredient declared as a minimum percentage in the ingredient list for blueberry muffins

Ingredients: Wheat flour, sugar, butter, egg, blueberries (*8% minimum*), water

Characterising ingredient declared as a minimum percentage near the ingredient list for blueberry muffins

Ingredients: Wheat flour, sugar, butter, egg, blueberries, water
Blueberries: 8% minimum

Note that if the proportion of the characterising ingredient or component is declared in the nutrition information panel, it must be declared as an average amount per serve and per 100 g or 100 ml, unless otherwise specified.

Code reference

Subclauses 3(5) and 6(3) of Standard 1.2.10 allow you to calculate the proportion of characterising ingredients and components using minimum weights.

Subclauses 5(3) and 7(3) of Standard 1.2.10 allow you to declare minimum percentages of characterising ingredients and components.

Subclauses 5(4) and 7(4) of Standard 1.2.10 requires that wherever you declare a minimum percentage, you must clearly indicate it is a minimum percentage.

5.2 Unpackaged food and food made on the premises from which it is sold

Unless the food is specifically exempt from percentage labelling, the percentage labelling declarations for unpackaged food or for food that is made and packaged on the premises from which it is sold, must be either:

- displayed on or in connection with the display of the food, or
- provided to the purchaser on request (verbally or in writing).

Code reference

Subclause 2(3) of Standard 1.2.10 provides the requirements for percentage labelling declarations of unpackaged food and food made and packaged on the premises from which it is sold.

As with packaged foods, there are a number of unpackaged foods and foods made and packaged on the premises from which they are sold that do not have to be percentage labelled, either because they do not have a characterising ingredient or component, or because they come under one of the specific exemptions in Standard 1.2.10. In section 2.4

– *Foods that are specifically exempt from percentage labelling*, you will find more information about foods that do not require percentage labelling.

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

Attachment 1 – Foods that do not have a characterising ingredient or component

Some foods may not have characterising ingredients or components and therefore are not expected to meet the percentage labelling requirements. These foods become evident after applying the definitions and exemptions outlined in Standard 1.2.10.

The examples below are illustrations only. There may be some cases where the general example does not hold and you do require percentage labelling.

Example: White bread

Using the definitions for a characterising ingredient listed in clause 1 of the standard, you determine that

- there are no ingredients or components mentioned in the name of the food, 'white bread'; and
- it is unlikely that a consumer would associate a particular ingredient or component with the nature of the food.

Providing you have not emphasised any ingredients or components on the label, you could consider white bread to have no characterising ingredients or components requiring percentage labelling.

Example: Products such as cakes, snacks, dessert mixes

These products are essentially mixtures of flour or other carbohydrates, oil/fat, sugar, salt, and flavourings.

You may consider that some of these products have no characterising ingredients or components requiring percentage labelling because either:

- the variation in the quantity of the ingredient might not be such as to affect a consumer's choice, i.e. the exemption under subclause 1(g) of Standard 1.2.10 applies; or
- ingredients are used in small quantities as flavouring, i.e. the exemption under subclause 1(d) of Standard 1.2.10 applies.

However, there would be some cakes, snacks and dessert mixes which require percentage labelling. For example, a product named 'Madeira Cake' would be unlikely to require percentage labelling but a product named 'Apple Cake' would because apple is mentioned in the name of the food.

Example: Seasonings and mixtures of spices and herbs, stock and stock cubes

In many cases, the exclusions under subclause 1(d) and 1(g) from the definition of characterising ingredient, discussed in the examples above, would apply. However, there would be some seasonings and mixtures of herbs and spices where these arguments do not hold and you would need percentage labelling. For example, a spice mix emphasising a particular spice in a graphic on the label, may trigger a percentage labelling requirement.

Attachment 2 – Calculation of the proportion of characterising ingredients

Calculations based on ingoing weight (when there is no moisture loss from added water)

This method involves dividing the ingoing weight of the characterising ingredient (or category of characterising ingredients) by the total weight of all ingoing ingredients and multiplying by 100.

Example: Canned peas

Ingredients	Weight (kg)
Peas	88
Water	10
Salt	0.9
Sugar	1.1
<i>Total ingoing ingredients</i>	100

Calculate the percentage of the characterising ingredient (peas) as $88/100 \times 100 = 88.0\%$ where 88 kg is the ingoing weight of the peas and 100 kg is the total weight of ingoing ingredients. Rounded to the nearest whole number, the percentage of the characterising ingredient (peas) is 88%.

Calculations based on ingoing weight (when there is moisture loss from added water or volatile ingredients)

This method involves dividing the ingoing weight of the characterising ingredient (or category of characterising ingredients) by the total weight of all ingoing ingredients of the food minus the weight of any added water or volatile ingredients that are lost during the manufacturing process, and multiplying by 100. The total weight of the ingoing ingredients should be reduced by the weight of the added water and/or volatile ingredients that is lost during the manufacturing process. This method should only be used when the weight of the moisture loss during processing is the same or less than the weight of the added water and volatile ingredients.

Example: Fried fish in batter

Ingredients	Weight (g)
Fish	70
Flour	32
Water	8
<i>Total before frying</i>	110
Frying oil taken up	7
<i>Total ingoing ingredients</i>	117
Water lost from batter	-5
<i>Net total ingoing ingredients</i>	112

Calculate the percentage of the characterising ingredient (fish) as $70/112 \times 100 = 62.5\%$ where 70 g is the ingoing weight of the fish and 112 g is the total weight of ingoing ingredients of 117 g less 5 g water loss from the added water in the batter. Rounded to the nearest whole number, the percentage of the characterising ingredient (fish) is 63%.

Code reference

Clause 3 of Standard 1.2.10 sets out the method for calculation for proportion of characterising ingredient based on ingoing weight.

Calculations based on final weight of ingredient in final weight of food (where moisture loss occurs from ingredients of the food)

You also have the option of calculating the proportion of the characterising ingredient based on the final weight of the characterising ingredient in the final weight of food, instead of on the total weight of all the ingoing ingredients. You do this by taking into account the moisture loss (in addition to added water) from the characterising ingredient and from the food as a whole. You can determine values for the final weight of an ingredient by:

- direct laboratory analysis of the final food, where possible
- making an estimate based on the ingoing weight and the water content of the ingoing ingredients, where a value from direct analysis is not available (see example below).

The latter option becomes complicated in cases where there are many ingredients that contain water because you cannot make judgements on which ingredients lose water preferentially. The only exception is in the case of added water, which you must always calculate as being lost in its entirety first.

In the example below, the weight of water in each ingredient is calculated from the percentage of water in the ingredient. You can obtain values for the percentage of water in an ingredient from food composition tables or your ingredient supplier. You can also measure the amount of water in an ingredient, for example, by using a relevant AOAC method for your food.

Example: Apple cake

Ingredients	Ingoing weight	Water content	Total weight of water	Weight of water lost	Final weight
	(g)	(%)	(g)	(g)	(g)
Flour	225	14	31.5	9.1	215.9
Sugar	185	0	0.0	0.0	185.0
Butter	125	16	20.0	5.8	119.2
Eggs (2)	125	75	93.8	27.2	97.8
Apple	120	88	105.6	30.6	89.4
Milk	125	88	110.0	31.9	93.1
Total weight	905		361	105	800

In the above example:

- the final weight of the cake after baking is 800 g, ie, a total of 105 g water was lost from 361 g total water in the ingredients
- the percentage water loss for the whole cake is then $105/361 \times 100 = 29\%$. This water loss is assumed to occur equally from each ingredient that contained water
- there was 88% water in the apple, so the apple had $120 \times 88/100 = 105.6$ g water, before baking
- 29% of the water was lost from the apple during baking, i.e. $105.6 \times 0.29 = 30.6$ g water
- the final weight of apple is $120 - 30.6 = 89.4$ g being the original weight of apple minus the water lost from it.

Calculate the percentage of apple in the final cake by dividing the final weight of the apple after baking (89.4 g) by the final weight of the cake after baking (800 g): $89.4/800 \times 100 = 11.2\%$.

Rounded to the nearest whole number, the percentage of the characterising ingredient (apple) is 11%.

Code reference

Clause 4 of Standard 1.2.10 sets out the method for the calculation of the proportion of characterising ingredients based on the weight of the final food.



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai - Ahitereiria me Aotearoa

Labelling of Alcoholic Beverages

User Guide

November 2014

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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 and 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 help 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 NZ 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 on the requirements of the Code as they relate to the labelling of alcoholic beverages.

1. The labelling requirements for alcoholic beverages

The labelling requirements for alcoholic beverages are in Parts 1.2 and 2.7 of the Code. These requirements apply to beverages such as beer, wine and spirits.

The labelling requirements may not be applicable where the alcoholic beverage is sold in such a way as to be exempt from these requirements. However, in these situations, information may need to be displayed or provided to the purchaser.

Subclause 1(5) of Standard 1.1.1 provides specific exemptions for wine with a shelf-life of more than 12 months that was bottled prior to 20 December 2002. These wines do not need to comply with the current labelling requirements in the Code, if they would have complied with the applicable food standards in Australia or New Zealand on the date of bottling. These wines would need to be labelled with a 2002 vintage date or earlier.

Code reference

Standard 1.2.1 – Application of Labelling and Other Information Requirements sets out the application of the labelling and information requirements, including general exemptions from the requirement for a food to bear a label.

Other user guides

For further information on the general exemptions from labelling requirements, see the FSANZ User Guide on *Overview and Application of Food Labelling and Information Requirements*.

In addition to the requirements in the Code, there are also general legal requirements that apply to the labelling of alcoholic beverages. For example, in Australia the requirements of the *National Trade Measurement Regulations 2009 (Cwlth)* deal with measurement markings. In New Zealand, the *Weights and Measures Act 1987* sets out the requirements for measurement markings.

There are also legal requirements which deal with representations about alcoholic beverages. These requirements are outlined in more detail at the end of this user guide.

1.1 Part 2.7 – Alcoholic Beverages

The majority of the labelling requirements in Part 2.7 of the Code are in Standard 2.7.1 – Labelling of Alcoholic Beverages and Food Containing Alcohol. There are also some specific references and requirements in Standard 2.7.4 – Wine and Wine Products and Standard 2.7.5 – Spirits.

Alcohol by Volume Labelling – Standard 2.7.1

The requirements for the declaration of alcohol by volume apply to foods generally but for the purposes of this guide the requirements will be expressed as for alcoholic beverages only. The term ‘alcohol’ in the Code is a reference to ethyl alcohol or ethanol.

The label on the package of an alcoholic beverage containing more than 1.15% alcohol by volume must include a statement of the alcohol content. This statement must indicate the volume of alcohol in the alcoholic beverage as a proportion of the alcoholic beverage. The specific wording for the statement is not prescribed.

The label on the package of an alcoholic beverage containing 1.15% alcohol by volume or less must also include a statement of the alcohol content. This does not apply to alcoholic beverages containing less than 0.5% alcohol by volume. The statement must indicate that the alcoholic beverage contains not more than a certain proportion of alcohol by volume, with the food business to include the proportion in the statement. The specific wording for the statement is not prescribed, although a specific statement is provided in the Code for indicative purposes i.e. ‘CONTAINS NOT MORE THAN X% ALCOHOL BY VOLUME’.

Depending on the alcoholic beverage, the declaration of alcohol by volume must be accurate to within specific limits. These are indicated in the Table to subclause 2(2) of Standard 2.7.1.

Code reference

Clause 2 of Standard 2.7.1 includes the provisions relating to alcohol by volume labelling.

Standard Drink Labelling – Standard 2.7.1

Standard drink labelling does not apply to beverages packaged prior to 20 December 2002. The requirements for standard drink labelling apply to beverages or food capable of being consumed as a beverage, where the alcohol by volume is more than 0.5%. A ‘standard drink’ is the amount of a beverage that contains ten grams of alcohol at 20 degrees Celsius.

The label on a package of an alcoholic beverage must include a statement of the number of standard drinks in the package. Where the package contains ten or less standard drinks, this statement must be accurate to the first decimal place. Where the package contains more than ten standard drinks, this statement must be accurate to the nearest whole number of standard drinks.

Code reference

Clause 3 of Standard 2.7.1 includes the provisions relating to standard drink labelling.

Specific Representations about Alcoholic Beverages – Standard 2.7.1

Standard 2.7.1 includes prohibitions on certain representations about alcoholic beverages. These are:

- An alcoholic beverage containing more than 1.15% alcohol by volume must not be represented as a low alcohol beverage.
- The label on a package of a beverage containing more than 0.5% alcohol by volume must not include the words ‘non intoxicating’ or words of similar meaning.

- Alcoholic beverages must not be represented in a form which expressly or by implication suggests that the beverage is non-alcoholic.

This latter prohibition applies to all foods containing alcohol.

Code reference

Clauses 4, 5 and 6 of Standard 2.7.1 include these prohibitions.

Standard 2.7.4 – Wine and Wine Products

In considering the requirements that apply to wine and wine products, relevant food businesses should also consult:

- For wines produced in Australia, the *Wine Australia Corporation Act 1980* (previously the *Wine and Brandy Corporation Act 1980* and the Regulations made under that Act.
- For wines produced in New Zealand, the *Wine Act 2003* and the Regulations and any Notices made under that Act.

Standard 2.7.5 – Spirits

The standard includes prohibitions on certain uses of geographical indications. A spirit is defined in Standard 2.7.5 as:

a potable alcoholic distillate, including whisky, brandy, rum, gin, vodka and tequila, which, unless otherwise required by this Standard, contains at least 37% alcohol by volume, produced by distillation of fermented liquor derived from food sources, so as to have the taste, aroma and other characteristics generally attributable to that particular spirit.

A geographical indication is defined as an indication either expressly made or implied:

(a) which identifies a spirit as originating in a particular country, locality or region

(b) where a given quality, reputation or other characteristic of the spirit is essentially attributable to its origin in that particular country, locality or region.

The Standard prohibits a geographical indication being used for a spirit unless the spirit has been produced in the country, locality or region indicated.

The standard also prohibits a spirit being sold under a geographical indication where the spirit is lawfully exported under the geographical indication from the indicated territory, locality or region but bottled in another territory, locality or region. This prohibition does not apply if the alcohol by volume concentration for the spirit is at a level permitted under the applicable laws for that geographical indication.

Scotch Whisky is one example of a spirit product name for which the Standard includes prohibitions on certain uses. Whisky produced in Scotland, in accordance with United Kingdom laws, can be labelled Scotch Whisky¹. The production and sale of Scotch Whisky in Scotland is regulated through The Scotch Whisky Regulations 2009.

This is without prejudice to the use and protection of certain terms as geographical indications in New Zealand and Australia; a matter which is governed by the laws of those jurisdictions.

Standard 2.7.5 operates in conjunction with other legislation. For example, the definition of whisky in Australia is also regulated by Section 105 (a) (1) of the *Customs Act 1901 (Cth)* and Section 77FI (1) of the *Excise Act 1901 (Cth)*. These provide that whisky produced in, or imported into, Australia must have been produced by the distillation of a fermented liquor of a mash of cereal grain in such a way that the spirit possesses the taste, aroma and other

¹ National Food Authority v the Scotch Whisky Association [1995] FCA 1205 (1995).

characteristics generally attributed to whisky and matured by storage in wood for at least two years.

Code reference

Clause 4 of Standard 2.7.5 includes requirements about geographical indications

1.2 Part 1.2 – Labelling and Other Information Requirements

Some alcoholic beverages may be exempt from some general labelling requirements in Part 1.2 of the Code, including:

- Standard 1.2.4 – Labelling of Ingredients
- Standard 1.2.8 – Nutrition Information Requirements
- Standard 1.2.10 – Characterising Ingredients and Components of Food.

There are a number of standards which include general conditions that are, or in some situations may be, applicable to the labelling of alcoholic beverages, including:

- Standard 1.2.2 – Food Identification Requirements
- Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations (where relevant)
- Standard 1.2.5 – Date Marking of Food
- Standard 1.2.6 – Directions for Use and Storage (where relevant)
- Standard 1.2.7 – Nutrition, Health and Related Claims
- Standard 1.2.8 – Nutrition Information Requirements (where a nutrition content claim is made)
- Standard 1.2.9 – Legibility Requirements
- Standard 1.2.11 – Country of Origin Requirements (Australia only).

Standard 1.2.2 – Food Identification Requirements

Unless exempt, alcoholic beverages must include on the label:

- a name or description sufficient to indicate the true nature of the beverage
- the lot identification
- the name and business address in Australia or New Zealand of the supplier.

Code reference

Standard 1.2.2 – Food Identification Requirements includes these provisions.

Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations

Information must be provided about certain foods and substances in the form of mandatory declarations, warning statements or advisory statements. There are specific exemptions for some foods and substances e.g. isinglass.

Other than for warning statements, the exact wording and minimum size of type for these statements are not prescribed. If a mandatory declaration or an advisory statement is required, then it must be declared, provided or displayed as specified.

Code reference

Standard 1.1.1 defines warning statements and lists where they are found throughout the Code.

Standard 1.2.3 sets out the provisions regarding warning and advisory statements and declarations.

Other user guides

For further information on the requirements for mandatory advisory statements and declarations, see the FSANZ User Guide on *Warning & Advisory Statements and Declarations*

Standard 1.2.5 – Date Marking of Food

A date mark for an alcoholic beverage must be provided where required.

Businesses should also be aware of other legislation that may list such requirements, i.e. for New Zealand – the Wine (Specifications) Notice 2006.

Other user guides

For further information on the requirements for date marking, see the FSANZ User Guide on *Date Marking*

Standard 1.2.6 – Directions for Use and Storage

Directions for use and storage of an alcoholic beverage must be provided where the beverage is of a nature as to warrant such directions for health and safety reasons.

Standard 1.2.7 – Nutrition, Health and Related Claims

This Standard sets out the conditions for nutrition content claims and health claims. Health claims and nutrition content claims, other than nutrition content claims about energy content or carbohydrate content, are prohibited on alcoholic beverages (and other foods) that contain more than 1.15% alcohol by volume.

Standard 1.2.8 – Nutrition Information Requirements

Nutrition information must be provided where a nutrition content claim or health claim is made in relation to an alcoholic beverage (note that certain claims are not permitted on alcoholic beverages (and other foods) that contain more than 1.15% alcohol by volume, as outlined above).

Other user guides

For further information on the requirements when nutrition claims are made, see the FSANZ User Guide on *Nutrition Information*.

Standard 1.2.9 – Legibility Requirements

All prescribed labelling and information must be in English. Information in other languages must not negate or contradict the information in English.

All information on a label must be written legibly and prominently such as to afford a distinct contrast to the background.

Code reference

Clause 3 of Standard 1.2.9 includes requirements for legibility of labels.

Other user guides

Other user guides

For further information on the requirements for legibility, see the FSANZ User Guide on *Legibility Requirements for Food Labels*.

Standard 1.2.11 – Country of Origin Labelling

The requirements in this Standard do not apply in New Zealand or to alcoholic beverages from New Zealand. All other packaged alcoholic beverages must include:

- a statement on the package that identifies the country where it was made or produced; or
- a statement on the package that identifies the country where it was manufactured or packaged along with a statement to the effect that the beverage is constituted from ingredients imported into that country or from local or imported ingredients, as the case may be.

There are also requirements about country and place of origin representations in other legislation. For example, section 9 of the *Commerce (Trade Descriptions) Act 1905* (Cth) prohibits a person from importing any goods to which a false 'trade description' is applied. A Trade description includes any description as to the country or place in or at which the goods were made or produced.

The *Competition and Consumer Act 2010* (Cth) prohibits businesses from engaging in conduct that misleads or deceives or is likely to mislead or deceive. More specifically, the Act prohibits businesses making false or misleading representations about the particular history of goods, the place of origin of goods or misleading the public about the nature, manufacturing process or characteristics of any goods. The *Competition and Consumer Act 2010* also contains defences that apply where country of origin claims are made if the goods pass one of a number of tests. For further information on the requirements under the *Competition and Consumer Act 2010*, visit [Australian Competition and Consumer Commission](#).

2. Representations about alcoholic beverages

All representations about alcoholic beverages are subject to a wider regulatory context that should be considered. Food businesses need to ensure that any representations are not false, misleading or deceptive or likely to mislead or deceive consumers about an alcoholic beverage.

Food Legislation

Food legislation in Australia and New Zealand includes provisions relating to representations about food which are relevant to alcoholic beverages. These include:

Food Act 1981 (New Zealand)

Subsection 10(1)

No person shall sell any food or appliance—

- (a) That bears or has attached to it, or is contained in a package that bears or has attached to it, any false or misleading statement, word, brand, picture, label, or mark purporting to indicate the nature, suitability, quantity, quality, strength, purity, composition, weight, origin, age, effects, or proportion of the food or appliance, or of the food or appliance contained in the package, as the case may require, or of any ingredient or nutrient or other constituent of the food or any component of the appliance; or*
- (b) That has been packaged, processed, or treated in a manner that is false or misleading in relation to any of the matters mentioned in paragraph (a) of this subsection.*

Food Acts of Australian States and Territories:

A person must not, for the purpose of effecting or promoting the sale of any food in the course of carrying on a food business, cause the food to be advertised, packaged or labelled in a way that falsely describes the food.

A person must not, in the course of carrying on a food business, sell food that is packaged or labelled in a way that falsely describes the food.

A person must not, in the course of carrying on a food business, supply food by way of sale if the food is not of the nature or substance demanded by the purchaser.

Food that is falsely described includes food to which any one or more of the following paragraphs applies:

- (a) The food is represented as being of a particular nature or substance for which there is a prescribed standard under the Food Standards Code and the food does not comply with that prescribed standard.*
- (b) The food is represented as being of a particular nature or substance and it contains, or is mixed or diluted with, any substance in a quantity or proportion that significantly diminishes its food value or nutritive properties as compared with food of the represented nature or substance.*
- (c) The food is represented as being of a particular nature or substance and it contains, or is mixed or diluted with, any substance of lower commercial value than food of the represented nature or substance.*
- (d) The food is represented as being of a particular nature or substance and a constituent of the food has been wholly or partly removed so that its properties are diminished as compared with food of the represented nature or substance.*

(e) Any word, statement, device or design used in the packaging or labelling of the food, or in an advertisement for the food, would create a false impression as to the nature or substance of the food, or the commercial value of the food, in the mind of a reasonable person.

(f) The food is not of the nature or substance represented by the manner in which it is packaged, labelled or offered for sale.

Consumer Protection Legislation

The *Competition and Consumer Act 2010* (Australia) has provisions dealing with representations in food and beverage labelling, packaging or advertising:

1. Schedule 2 – The Australian Consumer Law provides that businesses must not engage in misleading or deceptive conduct, or conduct likely to mislead or deceive. For example, businesses must not make representations likely to mislead or deceive consumers about the most prominent ingredients or characteristics of an alcoholic product.
2. The Australian Consumer Law also provides that businesses must not make a false or misleading representation that goods are of a particular standard, quality, value, grade, composition or style in relation to the supply, or possible supply, of a food or beverage. In short this means that an alcoholic beverage must match any description or claim made on the labelling, packaging or promotional material.

In New Zealand, misleading labelling (including origin) is covered under section 10 of the *New Zealand Food Act 1981* and section 13 of the *Fair Trading Act 1981*.

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

Other websites

Wine Australia

<http://www.wineaustralia.com/australia/>

Australian Customs Service

<http://www.customs.gov.au/>

The Scotch Whisky Regulations 2009:

http://opsi.gov.uk/si/si2009/uksi_20092890_en_1