

The Senate

---

Community Affairs  
Legislation Committee

---

Food Standards Australia New Zealand  
Amendment (Forum on Food Regulation and  
Other Measures Bill 2015 [Provisions])

November 2015

© Commonwealth of Australia 2015

ISBN 978-1-76010-326-2

### **Secretariat**

Ms Jeanette Radcliffe (Committee Secretary)

Mr Tasman Larnach (Senior Research Officer)

Ms Carol Stewart (Administrative Officer)

PO Box 6100  
Parliament House  
Canberra ACT 2600

Phone: 02 6277 3515

Fax: 02 6277 5829

E-mail: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Internet: [www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)

This document was produced by the Senate Community Affairs Committee Secretariat and printed by the Senate Printing Unit, Parliament House, Canberra.

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:  
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>

# MEMBERSHIP OF THE COMMITTEE

## 44<sup>th</sup> Parliament

### Members

Senator Zed Seselja, Chair	Australian Capital Territory, LP
Senator Rachel Siewert, Deputy Chair	Western Australia, AG
Senator Carol Brown	Tasmania, ALP
Senator Katy Gallagher (from 12 November 2015)	Australian Capital Territory, ALP
Senator Joanna Lindgren	Queensland, LP
Senator Nova Peris OAM (to 12 November 2015)	Northern Territory, ALP
Senator Dean Smith	Western Australia, LP



# TABLE OF CONTENTS

<b>Membership of the Committee .....</b>	<b>iii</b>
<b>Abbreviations .....</b>	<b>vii</b>
<b>List of Recommendations .....</b>	<b>ix</b>
<b>Chapter 1</b>	
<b>Introduction .....</b>	<b>1</b>
Referral .....	1
Conduct of the inquiry .....	1
Background.....	1
Key provisions and purpose of Bill .....	3
Consideration of the Bill by other committees.....	5
Acknowledgement.....	5
<b>Chapter 2</b>	
<b>Key issues.....</b>	<b>7</b>
Composition of the FSANZ Board.....	7
Regulation of genetically modified organisms.....	8
Public notification requirements.....	12
Regulation Impact Statements.....	13
Nutrition, Health and Related Claims Standard .....	14
Legislating changes to the Ministerial Council's name .....	15
Committee view.....	15
<b>Australian Labor Party Senators' Dissenting Report .....</b>	<b>17</b>
<b>Australian Greens Senators' Dissenting Report</b>	
The FSANZ Board .....	19
Notifying the Gene Technology Regulator and definitions of GM product and GMO in the FSANZ Act.....	20

Regulation Impact Statements ..... 23  
Recommendations ..... 23

**Appendix 1**

**Submissions received by the Committee ..... 25**

# ABBREVIATIONS

Act	Food Standards Australia New Zealand Act 1991
AFGC	Australian Food and Grocery Council
COAG	Council of Australian Governments
Council	Australia and New Zealand Food Regulation Ministerial Council
Department	Department of Health
Forum	Australia and New Zealand Forum on Food Regulation
FSANZ	Food Standards Australia New Zealand
GM	Genetically Modified
GMO	Genetically Modified Organism
OGTR	Office of the Gene Technology Regulator
PHAA	Public Health Association of Australia
RIS	Regulation Impact Statement





# **LIST OF RECOMMENDATIONS**

## **Recommendation 1**

**2.38 The committee recommends that the Senate pass the Bill.**



# Chapter 1

## Introduction

### Referral

1.1 On 15 October 2015, the Senate referred the provisions of the Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015 to the Senate Community Affairs Legislation Committee (committee) for inquiry and report by 30 November 2015.<sup>1</sup>

1.2 Appendix 4 to the Senate Selection of Bills Committee's report proposes that the committee scrutinise the 'impact of the amendments to definitions in the [Food Standards Australia New Zealand] Act'. The committee has also been asked to scrutinise 'the impact of amendments of the composition of the [Food Standards Australia New Zealand] board detailed in Schedule 2 of the Bill, including the potential impact of reducing the representation of science and public health expertise on the board'.<sup>2</sup>

### Conduct of the inquiry

1.3 Details of the inquiry, including a link to the Bill and associated documents, were placed on the committee's website.<sup>3</sup> The committee also wrote to 12 organisations and individuals, inviting submissions by 5 November 2015. Submissions continue to be submitted after that date.

1.4 The committee received eight submissions to the inquiry.

### Background

1.5 Food Standards Australia New Zealand (FSANZ) is a bi-national Government agency representing Australia and New Zealand that 'develops and administers the Australia New Zealand Food Standards Code, which lists requirements for foods such as additives, food safety, labelling and [Genetically Modified] foods. Enforcement and interpretation of the code is the responsibility of state and territory departments and food agencies within Australia and New Zealand'.<sup>4</sup>

1.6 The work of FSANZ is guided by the Australia and New Zealand Food Regulation Ministerial Council (the council) which is:

primarily responsible for the development of domestic food regulatory policy and the development of policy guidelines for setting domestic food

---

1 *Journals of the Senate*, No. 122—15 October 2015, p. 3260.

2 Senate Selection of Bills Committee, *Report No. 13 of 2015*, 15 October 2015, Appendix 4.

3 See:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/FSANZ](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/FSANZ).

4 Food Standards Australia New Zealand, <http://www.foodstandards.gov.au/Pages/default.aspx> (accessed 13 November 2015).

standards. The Forum also has the capacity to adopt, amend or reject standards and to request that these be reviewed.<sup>5</sup>

1.7 Membership of the council consists of ministerial representatives from Australian states, territories and local government, and New Zealand. The Board of FSANZ takes recommendations about food standards, guidelines and codes to the council for consideration.<sup>6</sup>

1.8 Until recently, the council was one of the 22 councils that met under the auspices of the Council of Australian Governments (COAG). On 13 December 2013, COAG decided to streamline the number of councils from 22 to eight. Despite the council being one of those removed from COAG, this would not affect the ongoing work of the council. The council determined that it would change its name to the Australia and New Zealand Forum on Food Regulation (the forum).<sup>7</sup>

1.9 This change requires an amendment to the *Food Standards Australia New Zealand Act 1991* (the Act). This amendment 'presents an opportunity to make other amendments in the same bill to improve the clarity and operation of the legislation'.<sup>8</sup>

1.10 In a concurrent unrelated process, a review of the Food Standards Australia New Zealand Board appointment process was conducted in 2013. This review made a number of recommendations which were accepted by the forum and form the basis of the legislative amendments in Schedule 2 of the Bill. These include amending:

- the compositional requirements of the FSANZ Board to address the need for flexibility to accommodate FSANZ's future work requirements; and
- in relation to certain categories of Board members, amend the nomination process to be an open market process by advertising for upcoming Board vacancies externally as well as seeking nominations from identified organisations.<sup>9</sup>

---

5 Department of Health, *Australia and New Zealand Ministerial Forum on Food Regulation*, <http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-anz.htm> (accessed 13 November 2015).

6 See: <http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-members.htm> (accessed 13 November 2015). See also: <http://www.foodstandards.gov.au/about/board/Pages/default.aspx> (accessed 13 November 2015).

7 The Hon Sussan Ley MP, Minister for Health, Aged Care and Sport, *House of Representatives Hansard*, 17 September 2015, p. 10 526.

8 The Hon Sussan Ley MP, Minister for Health, Aged Care and Sport, *House of Representatives Hansard*, 17 September 2015, p. 10 526.

9 Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015, Explanatory Memorandum (EM), pp 1–2.

---

## ***Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015***

1.11 On 17 September 2015, the Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015 was introduced into the House of Representatives by the Minister for Health, Aged Care and Sport, the Hon Sussan Ley MP.<sup>10</sup> The Bill received a second and third reading before being transmitted into the Senate on 15 October 2015 by the Assistant Minister to the Prime Minister, Senator the Hon James McGrath, with debate adjourned until the 30 November 2015.<sup>11</sup>

### **Key provisions and purpose of Bill**

1.12 This Bill seeks to amend the *Food Standards Australia and New Zealand Act 1991* (the Act) to 'reflect the change of name of the former Australia and New Zealand Food Regulation Ministerial Council to the forum'.

1.13 The Bill also contains a number of consequential and minor amendments to the workings of the forum. These include:

- mak[ing] amendments to improve the clarity and operation of the legislation—these amendments are intended to improve regulatory efficiency and provide greater clarification for businesses and Food Standards Australia New Zealand (FSANZ), by removing ambiguity and improving consistency in the way in which the act outlines procedures for consideration of food regulatory measures; and
- changes in relation to consumer rights, science, public health and food industry board members positions, amends the FSANZ Board's compositional requirements and appointment process, in accordance with recommendations endorsed by the forum, to:
  - address the need for flexibility to accommodate FSANZ's future work requirements, and
  - include a competitive selection process (such as external advertising), which the bill allows to occur simultaneously with the existing nomination process when recruiting for each vacant FSANZ Board member position.<sup>12</sup>

1.14 This Bill is comprised of two schedules, with Schedule 1 having two parts.

---

10 The Hon Sussan Ley MP, Minister for Health, Aged Care and Sport, *House of Representatives Hansard*, 17 September 2015, p. 10 526.

11 *Journals of the Senate*, No. 122—15 October 2015, p. 3278. See also: *Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015*, [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_LEGislation/Bills\\_Search\\_Results/Result?bId=r5542](http://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bId=r5542) (accessed 16 November 2015).

12 EM, p. 3.

### ***Schedule 1***

1.15 Primarily, this schedule proposes to change the name of the Australia and New Zealand Food Regulation Ministerial Council to the Australia and New Zealand Ministerial Forum on Food Regulation. There are a range of consequential amendments that relate to this change.

1.16 Under the current Act, an exhaustive list of government agencies need to be informed of all changes to FSANZ standards, guidelines and codes. A more precise definition of an 'appropriate government agency' is provided in this Bill, meaning that only government agencies relevant to the change will be informed of any changes. Consequently, item 11 repeals section 19 of the Act that requires FSANZ to refer any matter dealing with GM food to the Office of the Gene Technology Regulator (OGTR). As a result, item 4 repeals the definitions of "Gene Technology Regulator", "GMO (Genetically Modified Organism)" and "GM (Genetically Modified) Product".<sup>13</sup>

1.17 This schedule also seeks to modernise the manner in which FSANZ communicates draft standards or variations of a draft standard with the public and non-government stakeholders. Currently, FSANZ must publish a notice in a generally circulating newspaper; however under the proposed changes, these notices would only need to be published on the FSANZ website.<sup>14</sup>

1.18 Items 14, 32 and 87 of the Bill clarifies that the inclusion of a Regulation Impact Statement (RIS) in reports to the FSANZ will now only be required if FSANZ has requested that a RIS be prepared as part of that report.<sup>15</sup> These provisions refer to reports made under section 33 of the Act that refers to 'Approving the draft standard or draft variation'; section 63 of the Act that refers to 'Review of decisions'; and section 101 of the Act that refers to 'Re-affirm[ing] the standard or variation or propose changes'.<sup>16</sup>

1.19 FSANZ currently has a food standard that regulates nutrition content claims and health claims on food labels and advertising. Items 23 and 41 of this Bill seeks to remove a requirement whereby draft variations are assessed 'against the criteria set out in the Nutrition, Health and Related Claims Standard in relation to high level health claims'. This is primarily because such criteria do not exist. Instead high level health claims are based on '13 pre-approved food-health relationships'.<sup>17</sup>

---

13 EM, pp. 5.

14 EM, pp 5–8.

15 EM, p. 7.

16 *Food Standards Australia New Zealand Act 1991*, s. 33, 63 and 101. See also: EM, p. 7.

17 EM, p. 6. See also: Food Standards Australia New Zealand, *Nutrition content claims and health claims*, January 2013, <http://www.foodstandards.gov.au/consumer/labelling/nutrition/Pages/default.aspx> (accessed 16 November 2015).

1.20 There is no financial impact relating to this schedule.<sup>18</sup>

1.21 Part 1 of schedule 1 of this Bill is intended to commence the day after Royal Assent. Part 2 of the schedule is intended to commence on 'a single day to be fixed by proclamation, but if the provisions do not commence within a 12 month period beginning on the day the Act receives Royal Assent, the provisions do not commence at all'.<sup>19</sup>

### ***Schedule 2—appointing members to the Board***

1.22 This schedule proposes to amend the compositional requirements for the FSANZ Board including quotas for the qualifications and experience of members who are selected as Board members. The qualifications and experience of members are defined in item 1 and include representatives and individuals with expertise in consumer rights member, food industry, and science and public health member. These changes to the appointment process for members of the FSANZ Board reflect recommendations from the Board review process which were endorsed by the forum.<sup>20</sup>

1.23 There is no financial impact relating to this schedule.<sup>21</sup>

1.24 These changes are intended to commence on 1 January 2016.<sup>22</sup>

## **Consideration of the Bill by other committees**

### ***Scrutiny of Bills***

1.25 The Senate Standing Committee for the Scrutiny of Bills made no comment on this Bill.<sup>23</sup>

### ***Human Rights***

1.26 As the Bill does not engage human rights, the Parliamentary Joint Committee on Human Rights does not consider that the Bill requires additional comment.<sup>24</sup>

## **Acknowledgement**

1.27 The committee thanks those organisations who made submissions to the inquiry.

---

18 EM, p. 2.

19 EM, p. 4.

20 EM, pp 11–14.

21 EM, p. 2.

22 EM, p. 4.

23 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 11 of 2015*, 14 October 2015, p. 12.

24 Parliamentary Joint Committee on Human Rights, *Twenty-ninth report of the 44<sup>th</sup> Parliament*, 13 October 2015, p. 1.





# Chapter 2

## Key issues

2.1 A number of key issues relating to the Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015 were raised by submitters:

- composition of the Food Standards Australia New Zealand (FSANZ) Board;
- regulation of genetically modified organisms;
- public notification requirements;
- Regulation Impact Statements;
- Nutrition, Health and Related Claims Standard; and
- legislating changes to the Ministerial Council's name.

### Composition of the FSANZ Board

2.2 A review of the FSANZ Board appointment process was held in 2013. The review consulted widely with the food industry, consumer groups, scientists and public health groups. The review had nine recommendations, all of which were adopted by the Ministerial Forum.<sup>1</sup> The two recommendations relevant to this Bill, which relate to consumer rights, science, public health and food industry Board member positions, recommended amending:

1. the compositional requirements of the FSANZ Board to address the need for flexibility to accommodate FSANZ's future work requirements; and
2. in relation to certain categories of Board members, amend the nomination process to be an open market process by advertising for upcoming Board vacancies externally, as well as seeking nominations from identified organisations.<sup>2</sup>

Schedule 2 of this Bill implements these recommendations.

2.3 A number of concerns were raised with regard to changes to the composition of the FSANZ Board. The Public Health Association of Australia (PHAA) opposed the changes and argued that these changes may lead to a reduction in the number of public health and science representatives. The PHAA also opposed the omission of the National Health and Medical Research Council nominee on the Board.<sup>3</sup> Some submissions raised the prospect that food industry representatives may dominate the Board and that this may result in a more corporate focussed approach which, in turn, may diminish the importance of public health and scientific outcomes. Other concerns

---

1 The Ministerial Forum has ministerial representatives from the Australian federal, state and territory governments, the Local Government Association, and the New Zealand Government.

2 Department of Health, *Submission 8*, pp 5–6.

3 Public Health Association of Australia, *Submission 1*, p. 7.

focussed on the perception that the Minister may be subject to undue influence in the exercise of her power to appoint nominees.<sup>4</sup> The Australian Food and Grocery Council (AFGC), whilst supportive of the proposed use of competitive selection processes, noted that the Board may have up to seven representatives from New Zealand.<sup>5</sup>

2.4 Currently, there are 7 positions on the Board reserved for consumer rights, science, public health and food industry representatives. The Bill retains these seven positions and prescribes that there must be at least two public health/science representatives whereas the food industry must have at least one. Further, the new appointment process allows for a competitive process to be undertaken in conjunction or separate to the current nomination process. The intention of these changes is to 'open up the pool of potential candidates' and 'to ensure that the FSANZ Board has the right mix of skills for FSANZ's future work requirements'. In its submission, the department noted that 'under the proposed amendments, the Commonwealth Minister for Health does not have unfettered power to appoint FSANZ Board members' as the ministerial 'forum needs to agree to the appointment' of any new Board member.<sup>6</sup>

### **Regulation of genetically modified organisms**

2.5 There is a perception held by some submitters that this Bill may result in a reduction in the regulation of genetically modified (GM) food or genetically modified organisms (GMO). These submissions highlighted concerns with two aspects of the Bill that relate to GM and GMOs. The first relates to the proposed removal of section 19 of the *Food Standards Australia New Zealand Act 1991* (Act) which specifies when the Office of the Gene Technology Regulator (OGTR) needs to be informed by FSANZ of any changes to food regulation. The second concerns the removal of definitions for 'gene technology regulator', 'GMO' and 'GM' from the Act.

2.6 Item 1 of the Bill streamlines the definition of 'appropriate government agency' to ensure that the appropriate government agency receives notice of any proposed changes to the food code rather than an exhaustive prescribed list as is currently the case. In its submission, the Department of Health (department) noted:

The current definition of "appropriate government agency" in subsection 4(1) of the FSANZ Act includes a list of specific Commonwealth, State, Territory and New Zealand Departments and authorities, *all* of whom FSANZ must notify about certain matters related to food standards irrespective of whether a particular agency has an interest in the matter.

This can create a situation where FSANZ is obliged to notify Departments and authorities with no interest in the relevant matter and those bodies having to receive and process communication about matters of no interest to them.

---

4 Public Health Association of Australia, *Submission 1*, p. 8. See also: Friends of the Earth Australia, *Submission 6*, p. [3]; Gene Ethics, *Submission 5*, p. [4].

5 Australian Food and Grocery Council, *Submission 3*, p. 5.

6 Department of Health, *Submission 8*, pp 7–8.

---

Having a prescriptive list in legislation also results in administrative difficulties associated with keeping the list current. An example is where machinery of government changes results in name changes of Departments and authorities, as well as existing bodies being restructured. Updating a list in legislation requires legislative amendment and the associated time delays.<sup>7</sup>

2.7 The committee is satisfied with the need to streamline the definition of 'appropriate government agency' as proposed in the Bill.

***Repealing section 19 of the Act***

2.8 As a result of the proposed change to the definition of "appropriate government agency" item 11 of the Bill repeals section 19 of the Act which states that FSANZ must inform OGTR of any food regulatory measure that relates to food 'that is or contains a GMO or GM product'. The result of removing section 19 would be that the terms "GM product" and "GMO" are not referenced in the Act, and by extension, are not required in the Act's definitions hence their removal under Item 4.<sup>8</sup> The Explanatory Memorandum notes the effect of these changes:

The effect of the new definition is that where the FSANZ Act requires FSANZ to notify an "appropriate government agency", FSANZ would only notify the Gene Technology Regulator (the Regulator) where FSANZ considers that the Regulator has a particular interest in the relevant matter.<sup>9</sup>

2.9 As noted in the submission from the OGTR, GMOs are primarily regulated by the OGTR under the authority of the Commonwealth *Gene Technology Act 2000* and subservient state and territory legislation. It is critical to note that the OGTR's role is to proactively work in concert with other relevant regulators and agencies such as FSANZ to ensure that any risks to human health and environment are appropriately managed.<sup>10</sup>

2.10 A number of submitters have raised concerns that by removing section 19 of the Act, there is a risk that the circumstances in which FSANZ should refer proposed changes to food regulation to the OGTR become less clear. The Sustainability Council of New Zealand pointed out that section 19 has served a purpose in helping to provide 'consistency in approvals for growing and labelling a GM food'. There is a concern that there is no good reason provided for the removal of this section.<sup>11</sup>

2.11 Friends of the Earth Australia (FOTEA) noted that 'communication across agencies is vital in ensuring an effective and consistent regulatory system for GMOs'

---

7 Department of Health, *Submission 8*, p. 3.

8 EM, pp 5–6. See also: *Food Standards Australia New Zealand Act 1991*, s. 19.

9 EM, p. 6.

10 Office of the Gene Technology Regulator, *Submission 4*, pp [1–2].

11 Sustainability Council of New Zealand, *Submission 7*, p. 3.

and that 'FSANZ should be compelled to inform the OGTR if it makes a regulatory decision regarding GMOs'.<sup>12</sup>

2.12 In its submission, the OGTR noted that:

OGTR has a strong and cooperative relationship with FSANZ built on the connection between GMOs and genetically modified (GM) food. Integrated regulation in Australia is provided for by assessment and approval of commercial scale release of GM crops by the Gene Technology Regulator and corresponding assessment of GM food by FSANZ for inclusion in the Standard 1.5.2 (Food Produced Using Gene Technology) of the Australia New Zealand Food Code.

Interaction between OGTR and FSANZ is not limited to legislative requirements for request and provision of advice but includes a range of other activities. OGTR and FSANZ have a Memorandum of Understanding which recognises the importance of the relationship and exchange of advice and information between the two agencies. Senior officers of OGTR, FSANZ and other regulators engage at the strategic level as members of the Regulators' Forum (established following the 2006 review of [Gene Technology] Act to formalise information sharing between the OGTR and other regulatory agencies).<sup>13</sup>

2.13 The committee is satisfied that the new definition of "appropriate government agency" will ensure that a robust process continues to be applied to GM food products and that the repeal of section 19 of the Act will not adversely impact on the 'strong working relationship between OGTR and FSANZ'.<sup>14</sup>

### ***Repealing definitions for GM and GMO***

2.14 As stated in the previous section, in the event that this Bill is passed unamended with the removal of section 19 of the Act, the definitions for "GM product" and "GMO" are rendered superfluous as there will be no reference to these terms in the Act. Currently, these terms are defined using definitions found in the *Gene Technology Act 2000*. The *Gene Technology Act 2000* adopts a broad approach, defining GM technology (and subsequently "GM product" and "GMO") as 'any technique for the modification of genes or other genetic material'.<sup>15</sup>

2.15 Some concern has been raised in submissions that the repeal of the GM related definitions in the FSANZ Act would only leave gene technology defined in legislative instrument with respect to food regulation—specifically the Food Standards Code (Code) for *Food Produced Using Gene Technology*.<sup>16</sup> FOTEA argued that the current definition in the Code is 'not as broad and can be amended without

---

12 Friends of the Earth Australia, *Submission 6*, p. [1]. See also: Gene Ethics, *Submission 5*, p. [2].

13 Office of the Gene Technology Regulator, *Submission 4*, p. [2].

14 Office of the Gene Technology Regulator, *Submission 4*, p. [2].

15 *Gene Technology Act 2000*, s. 10(1).

16 Australia New Zealand Food Standards Code—Standard 1.5.2—Food Produced Using Gene Technology, Division 1, Clause 1(1).

---

parliamentary debate'. The Sustainability Council of New Zealand highlighted its concern that by removing these definitions, a 'key reference for the interpretation of the Food Code' and hence provide 'discretion for FSANZ to depart from an OGTR position'.<sup>17</sup>

2.16 In contrast, CropLife was unequivocally supportive of these proposed changes and argued that:

It is clear that these changes will have no material impact on the administration of the Australia New Zealand Food Standards Code, nor the manner in which FSANZ undertakes pre-market safety assessments of GM foods and food ingredients.<sup>18</sup>

2.17 The department was more expansive in its submission and noted that the adequacy of these definitions in this instance are irrelevant and that removal of the GM related definitions will have no bearing outside the FSANZ Act:

"GMO" and "GM product" are terms defined in the [Gene Technology] (GT) Act and which have restricted application in the FSANZ Act. "GMO" and "GM product" are terms used *only* in relation to notices given to the [Gene Technology Regulator] (GTR) by FSANZ under section 19 of the FSANZ Act (mentioned above) concerning food regulatory measures for food that is or contains a GMO or GM product. These terms have no other operation in the FSANZ Act and are not used in Standard 1.5.2 (Food Produced Using Gene Technology).

The above amendments will have no effect on the Australia New Zealand Food Standards Code (the Code). Nor do they change the Code.

The above amendments will not affect regulation of GM food. They make no change to the definitions or to the labelling requirements for GM food of Standard 1.5.2.

The above amendments will not remove the requirement for FSANZ to notify bodies or officers of the Commonwealth, State, Territory or New Zealand with a particular interest in genetically modified food, including the GTR, of applications or proposals relating to such food.<sup>19</sup>

2.18 In evidence to the committee, the department also highlighted that 'FSANZ will still make public its evaluations and, therefore, will remain accountable for consulting with appropriate government agencies'.<sup>20</sup> Continuing transparency of FSANZ's activities will ensure that public scrutiny can continue to be applied to the regulation of food containing GM and non-GM ingredients.

---

17 Sustainability Council of New Zealand, *Submission 7*, p. 3. The question of parliamentary review of legislative instruments such as the Code is raised. The committee notes that the Senate has the capacity to review and, if appropriate, disallow legislative instruments such as the Code. This power is described in section 42 of the *Legislative Instruments Act 2003*.

18 CropLife Australia, *Submission 2*, p. [1].

19 Department of Health, *Submission 8*, p. 4.

20 Department of Health, *Submission 8*, p. 5.

## Public notification requirements

2.19 This Bill will modernise the manner in which public notification of draft standards or variations of a draft standard occurs.

2.20 The PHAA expressed a range of concerns with the proposed changes to public notification requirements. These concerns centred around the complaint that these changes will shift responsibility for communicating and understanding any draft variations from FSANZ to the stakeholder. PHAA explained:

FSANZ has made efforts to establish circulation lists of interested parties who are notified about proposed changes to the Food Standards Code. However, withdrawing the requirement of notification in public newspapers and using only the Authority's website places the burden on the interested community, public health or food industry person to proactively seek the information. This requires the person to be aware of any proposed change and also the time frame involved so they can actively seek the information from the website. This may not be an issue for those who are in employed positions that support their time to monitor and seek such information on proposed changes, but disadvantages community members who lack such time and support. The result of the proposed change may skew the range of comments that are submitted and limit the effectiveness of the consultation process.<sup>21</sup>

2.21 FOTEA also opposed the changes and highlighted the important role that general circulation newspapers play for segments of the Australian and New Zealand population, in particular rural and regional audiences. Despite this, FOTEA acknowledged a need for FSANZ to become more sophisticated in how it communicates with its stakeholders especially in the current environment where newspaper notices are expensive and the audience reach of newspapers is declining. If the Bill is to proceed, FOTEA advocated for the addition of 'mandatory notification of subscribers to FSANZ email updates' to the Bill.<sup>22</sup>

2.22 Gene Ethics was conditionally supportive and noted that FSANZ's current public notification process was insufficient and that there is a need to ensure that any new process is effective in communicating changes relating to the regulation of food:

[W]e are not satisfied that FSANZ is sufficiently proactive in drawing attention to this information by notifying all relevant people in the food industry or the interested public of new proposals and decisions to amend or vary food standards and codes of practice. Relying solely on email to issue notices, newsletters, media releases and the like is insufficient to ensure that those who should be aware of proposed changes are fully apprised of FSANZ'[s] activities.<sup>23</sup>

---

21 Public Health Association of Australia, *Submission 1*, p. 7.

22 Friends of the Earth Australia, *Submission 6*, p. [3].

23 Gene Ethics, *Submission 5*, p. [3].

2.23 Gene Ethics argued that the public notification requirements in the Bill should be augmented to include other forms of electronic media including, but not limited to, emails, short message service (SMS), and social media platforms.<sup>24</sup>

2.24 The AFGC was supportive of the changes and cited research indicating that 'smart phone penetration in the Australian market is now at 80% (4 out of 5), rising to 95% (19 out of 20) over the next 5 years'. With this in mind, the AFGC:

[S]upports the provisions that lift from FSANZ the obligation to publish notices relating to food regulatory measures in newspapers circulating in Australia and New Zealand. Such advertising is expensive and cumbersome in modern society when a web search would quickly direct interested parties to the FSANZ website. The AFGC further notes that FSANZ maintains a significant mailing list of interested stakeholders for providing notice of regulatory measures.<sup>25</sup>

2.25 FSANZ currently has an electronic subscription service that assists the public to keep up to date with the latest developments in food regulation. This service has a number of options that reflect the needs of different stakeholders.<sup>26</sup> The committee is confident that FSANZ will continue to offer this service, and that it will evolve and improve as technology and stakeholder requirements change.

### **Regulation Impact Statements**

2.26 Currently, sections 33, 63 and 101 of the Act require that reports lodged with FSANZ must contain a Regulation Impact Statement (RIS).<sup>27</sup> However, there are 'occasions when an exemption may be given from the requirement to prepare an [RIS]'.<sup>28</sup> Under proposed changes in this Bill, the requirement to provide an RIS as part of a report would only be 'if applicable'.<sup>29</sup>

2.27 A number of submitters raised some issues with these proposed changes. The PHAA noted that:

[T]he criteria to determine when "if applicable" applies is not clear and the absence of a RIS on a recommended amendment may provide grounds for

---

24 Gene Ethics, *Submission 5*, p. [3].

25 Australian Food and Grocery Council, *Submission 3*, p. 3.

26 Food Standards Australia New Zealand, *Subscription Service*, <http://www.foodstandards.gov.au/media/pages/subscription-service.aspx> (accessed 18 November 2015).

27 *Food Standards Australia New Zealand Act 1991*, s. 33, 63 & 101. These reports are for the following purposes: 'Approving the draft standard or draft variation' (s. 33); 'Review of decisions' (s. 63); and 'Re-affirm[ing] the standard or variation or propose changes' (s. 101).

28 EM, pp 6–8.

29 Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015, Item 14.

the Ministerial Forum to reject a Board decision to amend the Food Standards Code.<sup>30</sup>

2.28 The AFGC agreed that more clarity about the criteria for when an RIS is required and argued that more transparency around the process that determines whether or not an RIS is required.<sup>31</sup>

2.29 The committee acknowledges the concerns of submitters; however, is cognisant that the change proposed in this Bill is largely administrative and simply recognises the fact that those reports currently not required to include a RIS should not be legislatively compelled to do so. Questions that go to the scope of a RIS and the process by which a RIS is determined as necessary are not part of this Bill and as such have not been considered by the committee.

### **Nutrition, Health and Related Claims Standard**

2.30 FSANZ currently has a food standard that regulates nutrition content claims and health claims on food labels and advertising—Standard 1.2.7. Item 23 and 41 of the Bill seek to remove a requirement whereby draft variations are assessed 'against the criteria set out in the Nutrition, Health and Related Claims Standard (the standard) in relation to high level health claims'.<sup>32</sup> This is primarily because Standard 1.2.7 does not contain such criteria. Again, these changes are largely administrative, with the committee noting that these requirements—to assess against the criteria in the standard—were added to the FSANZ Act in 2008, whereas the standard was only completed and commenced on 3 September 2015. In that time, another mechanism has evolved with regard to the assessment of high level health claims, with these claims now evaluated using '13 pre-approved food-health relationships'.<sup>33</sup>

2.31 FOTEA have expressed concern about these changes and stated that they 'do not believe a satisfactory reason for deleting these section[s] has been given'.<sup>34</sup> The committee is satisfied that these amendments are largely administrative as they will correct inconsistencies in the Act.

---

30 Public Health Association of Australia, *Submission 1*, p. 7.

31 Australian Food and Grocery Council, *Submission 3*, p. 5. See also: Gene Ethics, *Submission 5*, p. [3].

32 High level health claims refers 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. An example of a biomarker health claim is: Phytosterols may reduce blood cholesterol.

33 EM, p. 6. See also: Food Standards Australia New Zealand, *Nutrition content claims and health claims*, January 2013, <http://www.foodstandards.gov.au/consumer/labelling/nutrition/Pages/default.aspx> (accessed 16 November 2015); Australian New Zealand Food Standards Code—Standard 1.2.7—Nutrition, Health and Related Claims; *Food Standards Australia New Zealand Amendment Act 2007*.

34 Friends of the Earth Australia, *Submission 6*, p. [3].



---

## Legislating changes to the Ministerial Council's name

2.32 Many submissions were silent or ambivalent on the merits of legislating the name change of the Australia and New Zealand Food Regulation Ministerial Council to the Australia and New Zealand Ministerial Forum on Food Regulation. Of those submitters that did discuss the change, most were supportive, with CropLife noting that the 'changes are substantially administrative in nature and will improve the clarity and operation of the legislation'.<sup>35</sup>

2.33 The AFGC noted that it has no objections to the name change; however, also noted that 'names do come and go, and it is not clear why legislative change of such an extent is necessary when the same end might be achieved by a reference to the Council as established from time to time under any name'.<sup>36</sup>

2.34 Gene Ethics is 'substantially in agreement' with these provisions, raising a minor concern about the use of the term 'reasonable' to describe the type of information the Forum may require prior to deciding on any variations to a standard, guideline or code. This submission argued:

Who is empowered to exercise this discretion and what is reasonable in such circumstances are undefined. Removing the word 'reasonable' would ensure that the Forum has unfettered and unlimited access to the evidence it needs to make fully informed decisions, particularly when it decides to review, and perhaps reject or modify, FSANZ's recommendations and decisions.<sup>37</sup>

## Committee view

2.35 Changes to the composition of the FSANZ Board stem from recommendations in the 2013 review that were agreed to by the Ministerial Forum and the Board. It is the committee's view that this will lead to a more competitive selection process and ultimately a more dynamic FSANZ Board that will meet the future challenges of food regulation. The committee notes that the Ministerial Forum has already changed its name and that this Bill simply formalises this change in a legislative sense. Many of the consequential changes relating to the name change are administrative. The committee acknowledges that this change is supported by Ministers from all levels of government in Australia and New Zealand.

2.36 Amending the definition of "appropriate government agency" will streamline the notification process and ensure that the most relevant government agency is informed of any changes to the food regulation code. Importantly, this will ensure that the OGTR is informed of any changes that affect the regulation of GM foods. The committee is confident that the removal of section 19 of the Act and the GM related definitions will not compromise the regulation of GM foods.

---

35 CropLife Australia, *Submission 2*, p. 1. See also: Public Health Association of Australia, *Submission 1*, p. 8.

36 Australian Food and Grocery Council, *Submission 3*, pp 3–4.

37 Gene Ethics, *Submission 5*, p. [4].

2.37 The committee agrees that this Bill represents an opportunity to make largely administrative amendments to the Act that modernise the manner in which public notification is undertaken, and accurately reflect the day-to-day operation and implementation of RIS and the Nutrition, Health and Related Claims Standard.

**Recommendation 1**

**2.38 The committee recommends that the Senate pass the Bill.**

**Senator Zed Seselja**

**Chair**

# Australian Labor Party Senators' Dissenting Report

1.1 Labor Senators on this Committee do not support the Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015 being passed in its current form.

1.2 Labor Senators are supportive of changes contained within the Bill that relate to:

- the name change of Australia and New Zealand Food Regulation Ministerial Council to the Ministerial Forum on Food Regulation;
- provisions which modernise the way FSANZ communicates with the public and Government departments and agencies, and;
- clarifications to the high level health claims provisions.

1.3 Labor Senators are not convinced that there is any need for changes to the FSANZ board composition and oppose the measures contained within Schedule 2 of the Bill, which relate to the changing the composition of the FSANZ board.

1.4 There has been no case for change outlined for the change to the FSANZ board.

1.5 Labor Senators acknowledge the work the FSANZ board does in the Australian food safety system and through that public health.

1.6 It is the view of the Labor Senators that the current composition of the board ensures that members have strong backgrounds in science, public health, and consumer and industry interests. This was supported by evidence to the Committee.

1.7 The Public Health Association of Australia (PHAA) told the committee they did not support the eliminating of the National Health and Medical Research Council (NHMRC) nominee:

this is likely to reduce expertise relating to conduct of trials, scientific rigour, the quality of evidence, and a level of independence and objectivity.<sup>1</sup>

1.8 The PHAA also submitted to the Committee their objections to the potential reduction of public health, consumer and science expertise on the board:

PHAA does not support any reduction in the number of Public health/science positions. Such people are the 'bread and butter' of the Board and should be increased, not decreased<sup>2</sup>

1.9 The Committee also heard from the PHAA that the proposed board structure may mean:

---

1 Public Health Association of Australia, *Submission 1*, p. 6.

2 Public Health Association of Australia, *Submission 1*, p. 6.

... minimal Board membership for Public Health and Consumer (1 each of consumer, public health and science) and potentially up to 4 of the 7 Board members from industry.<sup>3</sup>

1.10 A similar concern was expressed by the Australian Labor Party in 2001, when the Australian New Zealand Food Authority Amendment Bill was being deliberated by the parliament. In a dissenting report of the Senate Standing Committee on Community Affairs inquiring into that Bill, Labor Senators said:

The Department itself has stated that under the current proposal there is in theory potential for at least half of the new Board to be made up of members with industry interests.

The Opposition Senators strongly oppose such an outcome and will not support any restructuring of the Board that results in an increase in the representation of the industry groups that are regulated by FSANZ.<sup>4</sup>

1.11 The board composition proposed by the Government in the Bill could increase industry member representation to up to 4 members on a board of 11.

1.12 Labor Senators are concerned that the potential increase of industry representation on the FSANZ board will cause the board to lose its focus on science and public health. Further, there is potential for the board to be too heavily influenced by those groups it must regulate.

1.13 The regulatory process is underpinned by public confidence. The public must be confident that the regulator makes evidence-based decisions in the public interest. The changes proposed by the Government have the potential to undermine public confidence in the food regulatory system.

### **Recommendation 1**

**1.14 Labor Senators recommend the Senate amend the Bill to ensure there is no change to the composition of the board.**

### **Recommendation 2**

**1.15 Labor Senators recommend the Senate pass the Bill with these amendments.**

**Senator Carol Brown**

**Senator Katy Gallagher**

---

3 Public Health Association of Australia, *Submission 1*, p. 7.

4 Senate Community Affairs Legislation Committee, *Australia New Zealand Food Authority Amendment Bill 2001*, April 2001, p. 9.

# Australian Greens Senators' Dissenting Report

1.1 The Australian Greens do not support the recommendation in the majority report that the Bill be passed in its current form.

1.2 Food Standards Australia New Zealand (FSANZ) has an important role to play in developing and administering the Food Standards code. This requires a strong legislative framework and a balanced board appointment process ensuring representation for consumers and public health experts.

1.3 We thank those who have provided submissions to the Committee highlighting the complexity and potential concerns associated with a number of the changes proposed in the *Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015*.

## The FSANZ Board

1.4 The Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015 ('the Bill') changes how the FSANZ board is appointed, including the composition of the board.

1.5 The Department of Health noted in its submission that the changes 'relate to ... recommendations made arising out of a review of the FSANZ Board's appointment process'.<sup>1</sup> However as the Parliamentary Library's Bills digest noted, 'Unfortunately that report has not been published. Therefore it is not possible to gauge whether the amendments appropriately reflect those recommendations'.<sup>2</sup>

1.6 A number of submissions noted concerns over the changes proposed in the Bill. The Public Health Association of Australia did not support key aspects of the proposed changes, and noted that:

The new proposed wording ... provides greater flexibility to the Minister ... this level of flexibility in selecting Board members has the potential to

- 1) Have a large number of members with strong industry ties;
- 2) Diminish the public health perspectives; and
- 3) Decrease the independence / objective scrutiny of the quality of the science.<sup>3</sup>

1.7 Gene Ethics similarly said in its submission that:

---

1 *Submission 8*, p. 5.

2 Australian Parliamentary Library, 'Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015', *Bills Digest No. 32, 2015–16*, p. 6, 14 October 2014, [http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/4133205/upload\\_binary/4133205.pdf;fileType=application/pdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/4133205/upload_binary/4133205.pdf;fileType=application/pdf).

3 *Submission 1*, p. 7.

Vesting the power to appoint the FSANZ Board in a single Minister would politicize the appointment process and disenfranchise all other members of the Forum on Food Regulation, plus their constituents. It would repeal those provisions in the present Act which help to ensure that the Board is broadly representative and diverse in its composition, expertise and views, as it should be. Giving a Minister sole power to appoint would be an invitation for the most numerous and powerful sectoral interests on the Board to be over-represented and too influential. This would be undemocratic and not in the public interest.<sup>4</sup>

## **Recommendation 1**

**1.8 The Australian Greens recommend that the Bill be amended to retain the current Board appointment process.**

### **Notifying the Gene Technology Regulator and definitions of GM product and GMO in the FSANZ Act**

1.9 The Bill also amends the definition in the *Food Standards Australia New Zealand Act 1991* ('the FSANZ Act') of an 'appropriate government agency'. As the Department of Health noted in its submission:

The FSANZ Act requires FSANZ to notify appropriate government agencies about various matters related to the making, reviewing and varying of food regulatory measures, such as food standards.<sup>5</sup>

1.10 Currently the definition of an 'appropriate government agency' includes the Gene Technology Regulator (GTR). However FSANZ has discretion as specified under section 19 of the FSANZ Act, which states:

If a provision of this Act requires the Authority to give a notice concerning an existing or proposed food regulatory measure to the Gene Technology Regulator, the Authority is only required to give the notice if the food regulatory measure relates to food that is or contains a GMO or a GM product.<sup>6</sup>

1.11 The FSANZ Act includes definitions of GMO and GM product by reference to the *Gene Technology Act 2000*.

1.12 The Bill proposes to amend the definition of an 'appropriate government agency', so that the GTR is no longer explicitly specified. Instead, under the amendment proposed in the Bill FSANZ will be required to notify the GTR 'where FSANZ considers that the GTR has a particular interest in the relevant matter...'.<sup>7</sup>

1.13 The GTR has supported this change in its submission to the Committee, on the basis that 'the new definition will in no way remove the ability of FSANZ to seek

---

4 *Submission 5*, p. [5].

5 *Submission 8*, p. 2.

6 *Food Standards Australia New Zealand Act 1991*, s. 19.

7 *Submission 8*, p. 4.

---

advice from me [the Gene Technology Regulator] or my office in any relevant matter'.<sup>8</sup>

1.14 As a consequence of this change, the Bill removes the current definitions of GMO and GM product from the FSANZ Act. A number of submissions noted concerns about this proposed change, both in relation to coordination between regulators, and particularly in relation to the removal of definitions from the FSANZ Act.

1.15 Gene Ethics said that:

Deletion of the definition of GMO and GM product from the Food Standards Act would enable FSANZ to substitute definitions in the Food Standards Code which are much weaker than those in the Gene Technology Act. The food products of new Genetic Manipulation (GM) techniques now being developed in labs around the world may be automatically excluded from FSANZ regulatory purview as a result of these definitions. But a deregulatory approach may put public health and safety in serious jeopardy, as these products have no history of safe use. Excellent scientific evidence, stringent assessment and epidemiological studies that track the impacts of any of these novel food products that may be commercialized, will be essential ...

FSANZ notice to the OGTR of GM food applications and approvals is essential to the secure and co-ordinated regulation of GMOs and GM food products. The effective and failsafe functioning of the Commonwealth's integrated regulatory system depends on seamless and transparent co-ordination of decisions between various regulators.<sup>9</sup>

1.16 Similarly, Friends of the Earth Australia said:

We are concerned by the removal of the Office of the Gene Technology Regulator (OGTR) from this list. We believe that communication across agencies is vital in ensuring an effective and consistent regulatory system for GMOs. FSANZ should be compelled to inform the OGTR if it makes a regulatory decision regarding GMOs.<sup>10</sup>

1.17 Friends of the Earth Australia also noted significant concerns around the removal of the definitions of GM product and GMO from the Act:

The proposed amendments would delete the definitions of GMO (genetically modified organism) and GM production from Section 4 of the Act. Once they are gone the only definitions remaining are those in the Food Standards Code (Standard 1.5.2) which are not as broad and could be amended without Parliamentary debate. There is no coherent justification for these changes in the Explanatory Memorandum for the Bill.

---

8 *Submission 4*, p. [2].

9 *Submission 5*, p. [2].

10 *Submission 6*, p. [1].

The definition of GMO in the Food Standards Australia New Zealand Act 1991 is currently the same as that in the Gene Technology Act 2000 and refers to an organism (or progeny of an organism) that has been modified by gene technology. The Act defines gene technology as "any technique for the modification of genes or other genetic material". This definition would clearly include new GM techniques unless they were specifically exempted. We are concerned that by deleting this definition from the Act FSANZ is attempt to deregulate these techniques by stealth.

The definition of gene technology in the Food Standards Code is not as broad and is defined as "recombitant DNA techniques that alter the heritable genetic material of living cells or organisms". Certain new GM techniques may not be covered under this definition. For example, in 2012 FSANZ convened an expert panel – comprised almost entirely of genetic engineers with gene technology patents – to look at whether certain new GM techniques should be considered genetic engineering. The panel expressly concluded that one of these techniques, "ODM [oligo-directed mutagenesis] is not a recombitant DNA technique."

Likewise, a number of new GM techniques, such as Pioneer H-Bred's proprietary seed production technology (SPT) involve a GM parent but the GM crop industry is arguing that the final breeding product is not GM. Whilst these products would be defined as GMOs under the Gene Tech Act it is not clear that they would be included under the definition in the Food Standards Code.

The full implication of these changes in the context of new GM technologies need full examination before these amendments are considered.<sup>11</sup>

1.18 Similarly, a submission by the Sustainability Council of New Zealand argued that '... the deletion of these definitions from the Act cannot reasonably be described as having no impact on GM regulation', and opposed their removal.<sup>12</sup>

1.19 Given these concerns highlighted in submissions, the Australian Greens do not support the proposal to remove the GTR from the list of 'appropriate government agencies'.

## **Recommendation 2**

**1.20 The Australian Greens recommend that the Office of the Gene Technology Regulator be explicitly retained as an 'appropriate government agency' for the purposes of the *Food Standards Australia New Zealand Act 1991*.**

1.21 This will ensure the current framework for notifications to the GTR remains in place. Under section 19 of the FSANZ Act, there will still be an exemption so that FSANZ is not required to give notice if the food regulatory measure does not relate to a GM product or GMO. This approach will ensure the definitions (by reference to the

---

11 *Submission 6*, p. [2].

12 *Submission 7*, p. 3.



---

*Gene Technology Act 2000*) are retained in the FSANZ Act, addressing a key concern in a number of submissions.

## **Regulation Impact Statements**

1.22 Items 14, 32 and 87 in the Bill amend the FSANZ Act so that FSANZ is only required to include a Regulation Impact Statement (RIS) in a report where it has been required to prepare a RIS under the Office of Best Practice Regulation Guidelines. The Explanatory Memorandum states that this '... recognises that there are occasions when an exemption may be given from the requirement to prepare a Regulation Impact Statement'.<sup>13</sup>

1.23 The Public Health Association of Australia said that:

In relation to the proposed amendment, the criteria to determine when 'if applicable' applies is not clear and the absence of a RIS on a recommended amendment may provide grounds for the Ministerial Forum to reject a Board decision to amend the Food Standards Code. If this proposed amendment is accepted, it should be accompanied by clear criteria for when 'if applicable' will or will not be relevant.<sup>14</sup>

1.24 The Australian Food and Grocery Council similarly did not support this change, but said:

Rather than leaving the preparation of a RIS to the somewhat vague test of "if appropriate", the AFGC recommends that the FSANZ Act refer to making available either a RIS or the submission to, and reply from, OBPR that justifies why a RIS is not required. This would ensure a degree of transparency, and opportunity for contestability, in relation to the RIS process.<sup>15</sup>

1.25 Gene Ethics similarly supported retaining the current requirement for a RIS, without amendment.<sup>16</sup>

## **Recommendation 3**

**1.26 The Australian Greens recommend that FSANZ continue to publish Regulation Impact Statements, as a way of ensuring appropriate transparency around decision making.**

## **Recommendations**

### **Recommendation 1**

**1.27 The Australian Greens recommend that the Bill be amended to retain the current Board appointment process.**

---

13 EM, p. 6.

14 *Submission 1*, p. 7.

15 *Submission 3*, p. 5.

16 *Submission 5*, pp [3–4].

**Recommendation 2**

**1.28** The Australian Greens recommend that the Office of the Gene Technology Regulator be explicitly retained as an 'appropriate government agency' for the purposes of the *Food Standards Australia New Zealand Act 1991*.

**Recommendation 3**

**1.29** The Australian Greens recommend that FSANZ continue to publish Regulation Impact Statements, as a way of ensuring appropriate transparency around decision making.

**Recommendation 4**

**1.30** That the *Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Bill 2015* not be passed in its current form.

**Senator Rachel Siewert**

# **APPENDIX 1**

## **Submissions received by the Committee**

### **Submissions**

- 1** Public Health Association of Australia
- 2** CropLife Australia
- 3** Australian Food and Grocery Council
- 4** Office of the Gene Technology Regulator
- 5** Gene Ethics
- 6** Friends of the Earth Australia
- 7** Sustainability Council of New Zealand (plus an attachment)
- 8** Department of Health