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Australia New Zealand Food Authority
Amendment Bill 2001

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No. 120 2000–01

Australia New Zealand Food Authority Amendment Bill
2001

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5 May 2001

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Australia New Zealand Food Authority Amendment Bill 2001

Date Introduced: 8 February 2001

House: Senate

Portfolio: Health and Aged Care

Commencement: The principal amendments to the *Australia New Zealand Food Authority Act 1991* are contained in Part 1 of Schedule 1 of the Bill. Part 1 commences on the first day after an amendment to the Australia New Zealand Food Standards Agreement comes into force. This agreement, which was signed in 1995, established a system for the joint development of food standards between the two countries. The system of establishing food standards adopted in the Agreement is changed by this Bill. To ensure that Australia and New Zealand do not breach their commitments in the Agreement, it is proposed that the new framework for the setting of food standards should not take effect until the Agreement has been amended. As soon as practicable after the commencement of an amendment to the Agreement, the Minister must publish in the *Gazette* a notice that the provisions of Part 1 of Schedule 1 have commenced.

Purpose

To amend the *Australia New Zealand Food Standards Act 1991* to implement elements of the Food Regulation Agreement signed by members of the Council of Australian Governments in November 2000.

The Bill replaces the Australia New Zealand Food Authority (ANZFA) with a new statutory authority – Food Standards Australia New Zealand (FSANZ). The Bill also changes the process for the development of food standards.

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Background

Food Regulation: History

Food regulation in Australia dates back to the *NSW Adulteration Bread Act 1838*. Thereafter States proceeded to adopt their own legislation, for example, the *Victorian Pure Food Act 1905*, resulting in trade inefficiencies for the food industry both nationally and internationally. After Federation, in 1907, the Federal Council of the Associated Chambers of Manufacturers of Australia lobbied the Commonwealth and State governments for a uniform system of food laws. In 1908, Prime Minister Deakin promised uniform food standards.¹

Little progress was achieved however until the early 1990s. The Commonwealth has no general power to regulate food.² Constitutional limitations mean that responsibility for the regulation of food is shared between the Commonwealth and State governments.

The Commonwealth, States and Territories entered into a co-operative arrangement in 1991 to adopt food standards developed by the National Food Authority and agreed by Health Ministers from all participating jurisdictions. Consequently, all manufactured or unprocessed food products offered in Australia must comply with the Food Standards Code.

The National Food Authority (the NFA) was established as a Commonwealth statutory body by the *National Food Authority Act 1991* to develop national food standards and undertake related work.

In 1995, Parliament passed amending legislation to transform the National Food Authority into the Australia New Zealand Food Authority (ANZFA). The legislation enabled New Zealand to be represented on the Board of the Authority as well as membership of the Australia New Zealand Food Standards Council. This initiative introduced a joint food standards setting system for Australia and New Zealand.

Australian and New Zealand Food Authority

ANZFA is primarily responsible for developing, varying and reviewing standards for food available in Australia and New Zealand. Food standards may prescribe a range of matters including: food composition, use of additives, production, storage, handling, maximum levels of environmental contamination including heavy metals and pesticide residues, labelling and advertising.³ ANZFA also has responsibility for: co-ordinating national food surveillance and recall systems; conducting research; assessing policies about imported food; and developing codes of practice with industry.

ANZFA does not have responsibility for the implementation or enforcement of food standards. Recommendations made by ANZFA on draft food standards or draft variations of standards and the implementation and operation of uniform standards are considered by the Australia New Zealand Food Standards Council (ANZFSC). The Council is composed

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of Health Ministers from the Commonwealth, States and Territories as well as the New Zealand Health Minister. ANZFSC may adopt, amend or reject ANZFA's recommendations or return them for reconsideration. Under the scheme, once a standard has been adopted by ANZFSC it is adopted by reference under State, Territory and New Zealand legislation.

Currently there are a number of other agencies that have responsibilities in relation to food standards apart from ANZFA. Most importantly, the Australian Quarantine and Inspection Service (AQIS) has responsibility for developing and enforcing export food regulations and standards. In the primary industry sector, food safety standards are developed by the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ).⁴

The Food Regulation Review

In March 1997 the Prime Minister announced a review of food industry regulation noting that:

the food industry has significant concerns about the burden imposed on business by inconsistent and unnecessary regulation, poor co-ordination of government agencies and inconsistent compliance and monitoring arrangements. Significant issues include the costs of standards of compliance, costs of labelling compliance and the importance of the continued adoption of uniform food standards.⁵

The Review was conducted by Dr Bill Blair and culminated in the release of a report entitled, *Food - a growth industry* in August 1998.⁶ The Blair Review reported that 'the food regulatory system in Australia is considered to be complex, fragmented, inconsistent and wasteful.'⁷

Dr Blair made a number of recommendations including that:

- governments give greater impetus to achieving a well-integrated, streamlined and cost-effective co-regulatory system to effectively protect public health and safety, across the whole food supply chain;
- governments develop more effective working relations and strengthen partnerships between agencies involved in food regulation, the agrifood industry, relevant statutory authorities and consumers⁸;
- responsibility for developing all domestic food regulations and standards be centralised within a national agency that operates as a partnership between the Commonwealth and the States and Territories. The resulting food regulations or standards would be recommended to Commonwealth, State and Territory Ministers for national agreement and uniform adoption and be enforced and administered by the appropriate State and Territory regulatory agency⁹;

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- the Commonwealth should amalgamate, the food regulatory policy functions of AQIS and ANZFA and consider amalgamating other Commonwealth regulatory agencies to further streamline and improve food regulation in Australia¹⁰;
- a single Commonwealth/State/Territory and New Zealand Council of Food Ministers to be responsible for developing all food regulations in Australia¹¹; and
- the standard-setting process should be streamlined.¹²

The task of turning these principles and proposals into a new food regulatory system was given to the Senior Officers' Working Group (SOWG) of the Council of Australian Governments (COAG). The regulatory model recommended by the SOWG group was accepted by COAG at its meeting in November 2000 and is reflected in the Food Regulation Agreement (FRA) signed by the Heads of Government.¹³

COAG agreed that a new body known as Food Standards Australia New Zealand (FSANZ) should be established to replace ANZFA. The functions for the new body would include:

- developing proposed domestic food standards in accordance with the policy guidelines set down by the Ministerial Council;
- notifying the Ministerial Council of proposed standards developed by FSANZ;
- reviewing proposed standards or existing standards at the request of the Ministerial Council; and
- notifying the Ministerial Council of the outcomes of reviews of proposed standards or existing standards following a request by the Ministerial Council.¹⁴

It was also agreed that a new Ministerial Council should be established to oversee the operations of FSANZ. The constitution of the Council is set out in the FRA and is not dealt with in the Bill. The Council will have the power to "issue clear guidelines to FSANZ regarding the development of all domestic food standards and will also have the opportunity to reject a standard subsequent to its review against certain specified criteria."¹⁵ Membership of the Council will be based on the existing ANZFSC however, in addition to Health Ministers, the Council may also include Ministers from other portfolios nominated by individual jurisdictions. It is envisaged, for example, that Governments may wish to nominate their primary industry or trade minister to attend the Council.¹⁶ Each jurisdiction will have one vote to be exercised by their lead minister. According to the Commonwealth Department of Health all jurisdictions have nominated Health Ministers as their lead Minister on the new Council.¹⁷

COAG decided that the export food regulatory function of AQIS should not be transferred to the Authority in recognition of the high international profile of AQIS.¹⁸ FSANZ will develop all domestic food standards but will not take on the development of primary

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product standards, which have been the responsibility of ARMCANZ, until a working group consults with relevant stakeholders and develops appropriate processes for the consideration of the Ministerial Council.¹⁹ New Zealand will not be adopting the primary product food standards as they already have arrangements in place.

The Bill implements the elements of the Food Regulation Agreement that require Commonwealth legislation.

Main Provisions

Part 1 of Schedule 1 of the Bill contains the principal amendments required to implement the new food regulatory regime.

Item 2 changes the title of the Principal Act to Food Standards Australia New Zealand Act 1991. **Item 6** defines the ‘Authority’ as Food Standards Australia New Zealand. FSANZ is established as the successor body to ANZFA by **item 20**.

Existing section 9 of the Act lists the range of matters that may be the subject of a standard or a variation of a standard.

Items 26 amends paragraph 9(1)(c) deleting the reference to ‘packing and storage’. This amendment reflects the decision to adopt the concept of ‘handle’ which is defined in **new subsection 9(3)**. Handle, in relation to food, includes produce, collect, receive, store, serve, display, package, transport, dispose of or recall food. ‘Handle’ is therefore a much broader term than ‘packing and storage’. The Explanatory Memorandum states that the ‘inclusive definition is designed to ensure that all aspects of handling food are matters about which the Authority may develop standards.’²⁰

Section 10 of the Act deals with the objectives of the Authority in developing food regulatory measures.²¹ In recognition of the decision by COAG that the Ministerial Council should have a directional rather than purely reactive role **item 36** inserts **new paragraph 10(2)(e)** which requires the Authority to take into account written policy guidelines formulated by the Council and notified to the Authority. The Authority must publish any such guidelines on the Internet (**item 37**).

The Development of Standards

Part 3 of the Act deals with the procedural requirements for the development of food standards. Under the amendments proposed by the Bill, the Authority may develop or vary a standard in one of three ways:

- in response to an *application* by a person or body (existing section 12);
- by preparing a *proposal* on its own initiative (**new section 12AA**)²²; or

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- by declaring the *application* or *proposal* to be urgent (**new section 24**).

Where the Authority receives an application it must make an initial assessment²³ after which time the Authority must accept or reject the application.²⁴ If the application is successful the Authority must invite submissions from the public and appropriate government agencies.²⁵

Proposals developed by FSANZ will not be subject to the initial assessment process, however, the Authority must invite submissions on its proposals through a public notice (**new section 14A**). The notice must state how further information about the proposal may be obtained and invite written submissions within a specified period. Appropriate government agencies must also be notified in writing of the proposal.

Unlike existing section 14 which requires the Authority to give notice of an application ‘in a form the Authority considers will be effective in alerting interested parties’ **proposed section 14A** provides no guidance on how notice of a proposal is to given.²⁶

The Authority must then make a draft assessment²⁷ of applications and proposals (section 15 and **proposed section 15AA**²⁸). In making an assessment of a *proposal* the Authority must have regard to:

- any submissions made to it;
- the objectives and matters listed in section 10;
- any relevant New Zealand standards; and
- any other relevant matters.

The criteria used for making a draft assessment of an *application* are slightly different. The Authority is not explicitly required to consider New Zealand standards but, in addition to the factors listed in **proposed section 15AA**, must consider:

- whether the costs that would arise from a food regulatory measure to bodies or persons from the application would outweigh the public benefit, and
- whether there are any alternatives (available to Authority or not) which would be more cost effective.

It is unclear why the criteria considered by FSANZ should differ depending upon whether they are considering an application developed by a body or person or proposal developed by themselves.

After making a draft assessment of an application or proposal, the Authority must prepare a draft food regulatory measure or abandon the proposal (section 15A and **proposed section 15B**). If a draft is prepared the Authority must then give public notice that it

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intends to conduct a final assessment.²⁹ The Authority must then approve (with or without amendment) or reject a draft standard (**proposed section 18**).

The Role of the Council

Within 14 days of the Authority's approval of a draft standard or variation, the Authority must give the Council:

- a written notification of approval
- a copy of the approved draft
- a list of written submissions that were made for the purpose of the draft assessment and the final assessment
- a statement analysing those submissions
- a summary of the Authority's reasons for approving the draft, and
- a regulation impact statement (**proposed section 20**).

The Authority must publish the draft standard or variation on the Internet and a notice stating that the draft has been approved and the role of the Council in the subsequent examination of the draft (**proposed subsections 20(4) and (5)**).

Item 81 inserts a **new Division 3** to Part 3 which deals with the capacity of the Council to request the Authority to review a draft standard or variation or reject a draft standard.

Proposed new section 21 deals with the procedure whereby the Council may request a first review of a draft standard. The Council has 60 days after it has been notified of a draft to request the Authority to review a draft or inform the Authority that it does not intend to request such a review. In the event that the Council requests a review, it must inform the Authority about its concerns with the draft and may give the Authority appropriate directions as to the conduct of its review (**proposed subsections 21(2) and (3)**). Unless the Council provides otherwise, the review must be completed within three months (**proposed subsection 21(5)**). After the completion of the review, the Authority must reaffirm the draft, reaffirm the draft with amendments or withdraw its approval of the draft. The Authority's decision must be conveyed in writing to the Council with supporting reasons (**proposed subsection 21(6)**).

The exercise of this power is also regulated by the Food Regulation Agreement 2000 and the Australia New Zealand Joint Food Standards Agreement (**proposed subsection 21(7)**). The FRA provides that the Council must request an initial review if one Party feels that one or more of the following criteria applies to the standard:

- it is not consistent with existing policy guidelines set by the Ministerial Council;

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- it is not consistent with the objectives of the legislation which establishes FSANZ³⁰;
- it does not protect public health and safety
- it does not promote consistency between domestic and international food standards where these are at variance
- it does not provide adequate information to enable informed choice
- it is difficult to enforce or comply with in both practical or resource terms, or
- it places an unreasonable cost burden on industry or consumers.³¹

Proposed section 22 provides that the Council may request a second review within 60 days of being notified that the Authority has affirmed the draft with or without amendment. The FRA provides that the Council must request a second review if a majority of Council members agreed that standard comes within the criteria listed above.³² As with the first request for review under section 21, the Authority has 3 months to conduct the second review.

The Council has the power to reject a draft after a second review within 60 days.³³ **Proposed subsection 23(2)** provides that where the Council decides to reject a draft the Council must:

- prepare a notice setting out that decision and the reasons for that decision
- give the authority a copy of the notice, and
- publish a copy of the notice on the Internet.

In contrast to the current situation³⁴, the Council does not have the capacity to directly amend a standard or variation unless it is dealing with a standard that arose as a result of an urgent application or proposal.³⁵ The Department of Health and Aged Care initially advised the Senate Community Affairs Committee that the Government would be introducing an amendment to correct this anomaly.³⁶ Subsequently, the Department corrected its advice noting that the FRA provides that, except in the case of urgent standards, Ministers only have the power to reject standards and not to amend them. According to the Department, the reason for this position was “to provide a sensible balance between Ministerial responsibility and accountability, through transparent policy setting, and evidence-based standard setting, by the FSANZ Board.”³⁷

While it is no doubt necessary to clearly distinguish the role of the Council from that of FSANZ, the inability of the Council to amend a standard may mean that the Council is forced to choose between a standard that it believes is flawed and the consequences of having no standard at all.

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The Bill makes explicit the ability of the Council to request that the Authority review a particular standard within 3 months or a longer period if specified. The Council may give the Authority direction in relation to the conduct of the review (**new subsection 33(1A-1D)**).

Publication

Proposed section 23A deals with the requirements for publishing a standard or variation. Where a draft has been accepted by the Council, or not rejected within 60 days, the Authority must:

- prepare a notice stating that the draft is to come into effect at a specified date
- cause a copy of the notice to be published in the *Gazette* and in the *New Zealand Gazette*
- make a copy of the notice or draft available for public inspection, and
- publish a copy of the notice and draft on the Internet.

Several provisions of the Bill require notice of regulatory developments to be given to the public via the Internet.³⁸ This approach has drawn strong criticism from the Australian Consumers' Association (ACA). The ACA's submission to the Senate Community Affairs Committee states:

The Internet is not a universally accessible communications medium, it is a passive means of notification and consumer's access is limited by social economic status. People not only have to know that the site is there, and where on the site to look for but have regular Internet access to check regulatory developments. Consumers should not have to watch our food regulatory watch dog for changes to our food regulations.³⁹

While the Internet may not be universally accessible, the arrangements for publication in the Bill are clearly superior to the current situation where standards are only required to be published in the *Gazette*.⁴⁰

Urgent Proposals

The Bill, like the current Act,⁴¹ acknowledges that there may be circumstances where standards must be made as matter of urgency. **Proposed section 25** provides that the Authority may declare that an application or proposal is urgent in order to protect public health and safety. Such declarations must be published on the Internet and copies must be sent to appropriate government agencies, the Council, and any applicant. In the case of urgent proposals or applications, the procedures for Council to request a review for publication contained in **proposed sections 21-23A** do not apply.

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After considering an urgent application or proposal, the Authority must prepare a draft standard or variation of a standard (a draft) or decide not to proceed. Where the Authority decides to proceed, it must publish on the Internet a copy of the draft and a notice inviting agencies to give written submissions to the Authority within 10 business days or less. (**proposed section 25**).

The Authority must have regard to those submissions before deciding whether to approve the draft; approve the draft subject to amendment or abandon the draft. (**proposed section 26**).

As with non-urgent drafts, the Authority must publish in the *Gazette*, the *New Zealand Gazette* and on the Internet a notice stating that the draft has been approved and give its commencement date. A copy must also be available for inspection by the public (**proposed subsection 26(4)**).

Within 12 months of a standard or variation coming into affect the Authority must conduct a final assessment (**proposed section 27**). The Authority must decide whether to affirm the standard, vary or replace it. The Council must be given written notice of the decision and the reasons for it (**proposed section 28**). The Council then has the opportunity to request two reviews of the standard and ultimately to revoke or amend the standard (**proposed sections 28A-28C**). These provisions mirror the Council's powers under proposed sections 21-23 which were discussed above. The only significant difference is that **proposed section 28C** gives the Council the capacity to amend a standard.

Advisory Committees

Item 129 repeals section 42 of the Act reflecting the decision of COAG to abolish the Food Advisory Committee. In its place, the FRA establishes a new Food Regulation Standing Committee (FRSC) of senior officials, a body which is not recognised in the legislation. The FRSC will have responsibility for co-ordinating policy advice to the Ministerial Council and ensuring a nationally consistent approach to the implementation and enforcement of food standards.⁴² The membership of the Council is to reflect Ministerial Council membership however, in addition, the Australian Local Government Association will be invited to be a full member of the committee.

FSANZ will retain the capacity enjoyed by ANZFA to establish other committees under section 43 of the Act. The Authority must however comply with any directions given to it by the Council in relation to committees. Further, the Authority must advise the Council about the establishment or abolition of a committee and any directions given by the Board of the Authority to a committee (**proposed new subsections 43(4), (5)**).

Disclosure of interests

Section 50 of the Act requires a member of the Authority who has a 'direct or indirect pecuniary interest' in a matter being considered or about to be considered by the Authority to disclose the nature of the interest to the Minister. **Item 140** amends the section to

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require disclosure in cases of 'material personal interest'. The Explanatory Memorandum states that the change is designed to bring the Act into line with the obligations on members under the *Commonwealth Authorities and Companies Act 1997 (CAC Act)*. The term 'material personal interest' was favoured by the Parliament in the context of the CAC legislation because it was considered that the word 'pecuniary' unnecessarily restricted the disclosure requirements of directors as it did not take into account non-financial interests.⁴³

The ACA has expressed concern that the new definition will not require the disclosure of indirect material interests such as academic alliances, joint projects with industry and similar associations.⁴⁴

The New Board

ANZFA currently has 10 members. There is no legislatively prescribed limit on the number of persons that may be appointed to the Authority.⁴⁵ At present, section 40 of the Act states that the Authority is composed of the following members:

- a chairperson
- a chief executive officer
- a member who is an officer of a State or Territory Authority with responsibility for public health
- 2 members nominated by New Zealand
- a member with a background in consumer rights, and
- 2 'other' Members; and such other members, if any, as are appointed for a special purpose.

Under the proposed amendments to section 40 contained in **items 118-122**, the Board will have a maximum of ten members: a chairperson; a chief executive officer; 2 members nominated by the New Zealand lead Minister; a member who has a background in consumer rights; and between one and five other members.⁴⁶ The FRA states that in making these appointments, the Health Minister will seek to ensure that there is an appropriate balance of skills covering the above areas of expertise.⁴⁷

The Minister may only appoint a person as Chairperson, the consumer rights member or as an 'other' member with the approval of the Ministerial Council (**proposed subsection 40(1B)**). This represents an improvement in accountability over current arrangements where the Council need only be consulted on appointments.⁴⁸

New subsection 40(3) provides that the Minister may only appoint a person as: Chairperson; a person nominated by the New Zealand lead minister; or an 'other' member

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if the Minister is satisfied that the person is suitably qualified for an appointment because of expertise in one of the following fields:

- public health
- food science
- human nutrition
- government
- food regulation
- the food industry
- food processing or retailing
- primary food production
- small business, and
- international trade.

The amendments expand the list of relevant fields of expertise to include: government; food regulation; the food industry; primary food production; small business and international trade. Public administration and consumer rights are removed from the list.

A drafting error in relation to this section emerged during Senate Committee hearings. While the Board must have at least one member who has a background in consumer rights (**proposed paragraph 40(1)(d)**), ‘consumer rights’ was deleted from the list of skills contained in **proposed subsection 40(3)**. The consequence of this omission is that a consumer rights representative would not be eligible for appointment to the Board of FSANZ as Chair, as an ‘other’ member, or be nominated by the New Zealand lead Minister. The Department of Health has acknowledged that this outcome is contrary to the intention of the FRA and stated that the Bill will be amended to correct the oversight.⁴⁹

Item 124 is a significant provision because it has the effect of terminating the appointments of all existing members of ANZFA except the CEO upon commencement of Part 1 of the Bill.

The CEO⁵⁰ continues to hold office under transitional **item 147** until either: six months after the amendment to the Australia New Zealand Joint Food Standards Agreement comes into force; the Board reappoints the person to the office or the Board appoints another person to the office; which ever first happens.

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Concluding Comments

Lack of Consultation

A number of submissions to the Senate Community Affairs Committee inquiry argued that the proposals contained in the Bill have not been subject to adequate public consultation. While there was extensive consultation during the Food Regulation Review conducted by Dr Blair, the model developed by the SOWG has had insufficient exposure according to groups such as the AMA and the Public Health Association of Australia and the Australian Consumers' Association.⁵¹ The Department of Health has conceded that many of the recommendations of the Blair Review were couched in 'pretty general' terms and that there was not a formal consultative process in relation to the proposals contained in the Bill.⁵²

The Composition of the FSANZ Board and Ministerial Council

Organisations such as the Australian Consumer Association, the Public Health Association of Australia and the Dieticians Association of Australia have expressed concerns about the possibility that industry interests will come to dominate the Board of FSANZ. The DAA stated

DAA is concerned that up to five positions on the Board could be filled by food industry representatives, which may lead to potential conflicts with the prime ANZFA objective to protect health and safety.⁵³

The Department of Health has conceded that it is possible that the Government could 'stack' the FSANZ Board with industry interests.⁵⁴ It argues however that such an outcome is extremely unlikely. One safeguard against such an outcome is the requirement that the Council must approve most Ministerial appointments. Given that Health Ministers will be lead Minister in each jurisdiction, the Department argues that this should ensure "members particularly concerned with the protection of public health and safety are properly represented."⁵⁵

Critics of the Bill point out however, that there is no guarantee that the Health Minister will always be the lead Minister. There is no provision in either the Bill or the food regulation agreement that requires that the lead Minister for a jurisdiction to be its Health Minister.

The Australian Medical Association has also criticised the composition of the Ministerial Council where the embrace of the 'whole of government' approach may mean that primary industry and trade ministers have a place on the Council.

The proposed structure is more reflective of food industry interests and allows for representation from primary industry, small business and trade...we are concerned that such a structure will not always maintain public health and safety as its primary regulatory focus.⁵⁶

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In contrast the Australian Food and Grocery Council has praised the whole of government approach embodied in the Council. According to the AFGC, the Council and the more diverse board “recognise that food regulation clearly falls at the critical intersection of health and industry policy”.⁵⁷

It has been suggested that the Bill should be amended to expressly state that each jurisdiction’s Health Minister is the lead Minister of the Council and cannot be substituted by Ministerial colleagues from other portfolios.⁵⁸ Such an approach however, would necessitate the reopening of the Food Regulation Agreement signed by members of COAG. The Commonwealth cannot unilaterally change the membership and role of the Ministerial Council and FSANZ Board by amending the Bill.⁵⁹

Endnotes

- 1 See Rosemary Polya, *Chronology of Food Regulation in Australia*, Department of the Parliamentary Library, Forthcoming.
- 2 Section 4 of the *Australia New Zealand Food Authority Act 1991* states the purpose of the legislation and thereby seeks to draw on a number of Commonwealth powers under the Constitution. Section 4 states that the Act applies in relation to the standard of food sold, or standards in relation to activities undertaken before or in connection with the sale of food, by foreign and trading corporations (s51(xx)); the trade and commerce (s51(i)) in food between Australia and overseas, or among the States; food standards in the Territories (s122); standards of food supplied to Commonwealth authorities and instrumentalities²; and weights and measures (s51(xv)) in respect of food.
- 3 Section 9, *Australia and New Zealand Food Standards Act 1991*.
- 4 For example, ARMCANZ has developed national domestic meat standards.
- 5 The Hon. John Howard MP, *More Time for Business*, 24 March 1997.
- 6 Bill Blair, *Food a growth industry. The Report of the Food Regulation Review*, The Commonwealth, 1998.
- 7 *ibid* at p.xiv.
- 8 Recommendation 1.
- 9 Recommendation 11.
- 10 Recommendation 13.
- 11 Recommendation 14.
- 12 Recommendation 17.
- 13 A copy of this agreement can be found at the following link:
http://www.dpnc.gov.au/docs/food_regulation_agreement_3_nov.cfm

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- 14 See clause 8.
- 15 Council of Australian Governments, Communique, 3 November 2000. A copy of this communique can be found at the following link
http://www.pm.gov.au/news/media_releases/2000/media_release531.htm
- 16 See Senator Ian Campbell, Second Reading Speech, *Senate Debates*, 8 February 2001, p. 21545.
- 17 Commonwealth Department of Health and Aged Care, *Submission to the Senate Community Affairs Legislation Committee on the Australia New Zealand Food Authority Amendment Bill 2001*, March 2001.
- 18 According to the explanatory memorandum, “In moving the food export certification function from AQIS to ANZFA business would experience increased costs and market disadvantage due to uncertainty and delay caused by the disruption of the export certification arrangements. Overseas governments and business have a high level of confidence in AQIS export certification which could be undermined by this move. This would have a longer term impact on trade and therefore on food export businesses.” pp. 8/9.
- 19 Commonwealth Department of Health and Aged Care, *Submission to the Senate Community Affairs Legislation Committee on the Australia New Zealand Food Authority Amendment Bill 2001*, March 2001, p. 5.
- 20 Explanatory Memorandum p. 18.
- 21 ‘food regulatory measures’ are defined in section 3 of the Act to include standards and codes of practice.
- 22 This proposed section is essentially identical to existing section 21. It has been moved forward because the new Division 2 will set out the development process for food regulatory measures that are the result of both applications and proposals. See *Explanatory Memorandum*, p. 22.
- 23 This process is currently known as a ‘preliminary’ assessment. The Explanatory Memorandum states that ANZFA had consulted with stakeholders and decided that the current terms do not accurately describe the process for the development of food standards. Consequently, ‘initial assessment’ replaces ‘preliminary assessment’, ‘draft assessment’ replaces ‘full assessment’ and ‘final assessment’ replaces ‘inquiry’, see p. 20.
- 24 Existing sections 13 and 13A
- 25 Existing section 14.
- 26 An amendment may be required to delete the reference to ‘proposal’ in section 14. Applications and proposals are separately defined in sections 12 and 12A.
- 27 This process is currently known as full assessment.
- 28 This section is similar to existing section 23. It does not however reproduce subsection 23(3) because these provisions are relocated to **proposed section 15B**.
- 29 This is currently known as an inquiry.
- 30 These are set out in section 10 and include:

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- the protection of public health and safety;
 - the provision of adequate information relating to food to enable consumers to make informed choices; and
 - the prevention of misleading and deceptive conduct.
- 31 Subclause 3(e).
- 32 See subclause 3(f) of the Food Regulation Agreement.
- 33 A proposed standard may be rejected by majority vote of the Council – subclause 3(g) of the Food Regulation Agreement.
- 34 See existing section 20.
- 35 Proposed section 28C.
- 36 Mr Borthwick, Senate Community Affairs Legislation Committee, Evidence, 29 March 2001, p. 31.
- 37 Senate Community Affairs Legislation Committee, Inquiry into the Australia New Zealand Food Standards Authority Bill 2001, Answers to Questions on Notice.
- 38 For example, proposed sections 10, 20, 23A, 25.
- 39 Australian Consumers' Association, *Submission to the Senate Community Affairs Legislation Committee*, March 23 2001, p. 4.
- 40 Existing section 32. The Bill repeals this section.
- 41 Section 37.
- 42 See clause 6 of the Food Regulation Agreement.
- 43 Joint Committee on Public Accounts, 'An Advisory Report on the Financial Management and Accountability Bill 1994, the Commonwealth Authorities and Companies Bill 1994 and the Auditor-General Bill 1994, and on a Proposal to Establish an Audit Committee of Parliament', Report No.331, 1994, pp 44-45.
- 44 Australian Consumers' Association, *Submission to the Senate Community Affairs Legislation Committee*, March 23 2001, p. 10.
- 45 The current members of ANZFA are listed at the following web location
<http://www.anzfa.gov.au/WhatIsANZFA/DirectorBiographies.asp>
- 46 There will no longer be a member who holds office by virtue of the fact that he is an officer of a State or Territory public health body.
- 47 Clause 10.
- 48 Existing subsection 40(2).
- 49 Mr Corcoran, Senate Community Affairs Legislation Committee, Evidence, 29 March 2001, p. 24.
- 50 The CEO of ANZFA is currently, the Hon. Michael Mackellar.

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- 51 The submissions of these organisations can be found at the following link:
http://www.aph.gov.au/senate/committee/clac_ctte/anzfaabill2001/sublist.htm
- 52 Mr Borthwick, Senate Community Affairs Legislation Committee, Evidence, 29 March 2001, p. 29.
- 53 Dietitians Association of Australia, Submission to the Senate Community Affairs Legislation Committee on the Australia New Zealand Food Authority Amendment Bill 2001, March 23 2001, p. 4.
- 54 Mr Borthwick, Senate Community Affairs Legislation Committee, Evidence, 29 March 2001, p. 27.
- 55 Commonwealth Department of Health and Aged Care, Submission to the Senate Community Affairs Legislation Committee on the Australia New Zealand Food Authority Amendment Bill 2001, March 2001, p. 5.
- 56 Australian Medical Association, Submission to the Senate Community Affairs Legislation Committee on the Australia New Zealand Food Authority Amendment Bill 2001, March 2001, p. 2.
- 57 Australian Food and Grocery Council, Submission to the Senate Community Affairs Legislation Committee on the Australia New Zealand Food Authority Amendment Bill 2001, March 2001, p. 3.
- 58 See ACA submission, p. 3
- 59 See Department of Health submission, p. 4.

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