

19 August 2024
301-24

Approval report – Proposal P1063

Code Revision (2024) - Added Sugar(s) Claims

Food Standards Australia New Zealand (FSANZ) has approved amendments to the Australia New Zealand Food Standards Code (the Code) to correct a typographical error and remove a redundant term from the conditions for *no added sugar(s)* claims that were gazetted under [Proposal P1062 - Defining added sugars for claims](#).

On 31 May 2024, FSANZ sought submissions on a draft variation and published an associated report. FSANZ received seven submissions.

After having regard to the submissions received and the relevant matters as set out in this report, FSANZ amended and approved the draft variation on 7 August 2024. The Food Ministers' Meeting¹ was notified of FSANZ's decision on 19 August 2024.

This Report is provided pursuant to paragraph 63(1)(b) of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

¹ Formerly referred to as the Australia and New Zealand Ministerial Forum on Food Regulation.

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Executive summary

Food Standards Australia New Zealand (FSANZ) had prepared Proposal P1063 to:

- amend section S4—3 of the *Australia New Zealand Food Standards Code* (the Code) to correct a typographical error; and
- remove the term '*sugars*' from the Code as that term is now redundant as a result of the amendments made by Proposal P1062.

The Code's conditions for making *no added sugar(s)* claims were recently amended as a result of [Proposal P1062 - Defining added sugars for claims](#). The amendments made by that proposal resulted in a typographical error in section S4—3 of the Code. That section sets conditions for making *no added sugar(s)* claims.

Following assessment and the preparation of a draft variation, FSANZ called for submissions regarding the draft variation from 31 May 2024 to 27 June 2024. Seven submissions were received, all of which FSANZ had regard to (see Section 2.1 of this Report for details of submissions made).

For the reasons set out in this report, FSANZ has decided to approve an amended version of the draft variation proposed following assessment.

1 Introduction

1.1 The Proposal

Food Standards Australia New Zealand (FSANZ) prepared Proposal P1063 to correct a typographical error in section S4—3 of the *Australia New Zealand Food Standards Code* (the Code) and to remove a redundant term from the Code.

1.2 The current Standard

The approved draft variation will amend Standards 1.1.2, 1.2.7, 1.2.8, 2.6.2; and Schedule 4, of the Code.

1.3 Reasons for preparing the Proposal

Errors and issues are identified in the Code from time-to-time. This Proposal was prepared to correct a typographical error in the Code and to remove a redundant term from the Code.

1.4 Procedure for assessment

The Proposal was assessed under the General Procedure.

1.5 Decision

The draft variation as proposed following assessment was approved with amendments made to clause 4 and item [6] of the draft variation.

The amendments made to the draft variation following consideration of submissions are discussed in section 2.3.

The approved draft variation is at Attachment A. The approved draft variation takes effect on the date of gazettal.

The related explanatory statement is at Attachment B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislation.

The draft variation on which submissions were sought is at Attachment C.

2 Summary of the findings

2.1 Summary of issues raised in submissions

Seven submissions were received in response to the call for public submissions.

The Food for Health Alliance supported the draft variation.

The Australian Beverages Council (ABCL), New Zealand Beverage Council (NZBC), Australian Food and Grocery Council (AFGC), Infant Nutrition Council (INC), New Zealand Food and Grocery Council (NZFGC) and New Zealand Food Safety (NZFS) supported the removal of the term 'sugars*' from the Code as that term is now redundant as a result of the amendments made by Proposal P1062. However, they raised issues with the proposed amendment to section S4—3 of the Code. The issues raised are considered in Table 1 below.

Table 1: Summary of issues

Issue	Raised by	FSANZ response
<p>Support amendment of section S4—3 to clarify the conditions for making a ‘no added’ sugar claim.</p> <p>Do not support amendment of section S4—3 to replace the word ‘and’ in condition (b) with the word ‘or’. Concerned that use of the word ‘or’:</p> <ul style="list-style-type: none"> • will result in ambiguity, confusion and potential misinterpretation. • is at odds with the intent for the claim conditions as stated in P1062. For example, it would permit a food containing added sugar to make a ‘no added’ sugar claim if that food meets the total sugar threshold. <p>Recommended that section S4—3 instead be amended to restate relevant conditions as separate, distinct statements for making no added sugar claims.</p>	<p>ABCL NZBC AFGC INC NZFGC</p>	<p>FSANZ does not agree that use of the word ‘or’ - as proposed - would in effect permit foods containing added sugars to make ‘no added’ sugar claims if they meet the total sugar threshold.</p> <p>However, FSANZ notes industry concerns that some may misinterpret the conditions if amended as proposed. FSANZ therefore decided to amend conditions as recommended to clarify the regulatory intent.</p> <p>As stated in the P1062 approval report, the regulatory intent of the relevant conditions is that a ‘no added sugar(s)’ claim is not permitted in relation to the following foods:</p> <ul style="list-style-type: none"> • A food for sale that is an added sugar (as defined). • A food for sale that contains added sugar as an added ingredient. • A food for sale that does not contain ‘added sugar’, but does contain more than the prescribed amount of (total) sugars (i.e., 10.0 g /100 g for solid food, 7.5 g /100 mL for liquid food). <p>Item [6] of the draft variation has been amended accordingly.</p>

Issue	Raised by	FSANZ response
<p>The use of 'and' was intentional and is described as such in the P1062 Approval Report.</p> <p>The conditions in column 4 (of the table to section S4–3) relate to allowing a claim from column 3 to be made rather than prohibiting such a claim. The use of 'and' between conditions (b)(i) and (b)(ii) ensures both conditions apply before the 'no added sugar(s)' claim can be made.</p> <p>Instead of amending section S4–3 to replace the word 'and' with 'or', recommended that conditions b(i) and (ii) be restated as separate, distinct statements to remove any ambiguity.</p>	<p>NZFS</p>	<p>Noted.</p> <p>The use of the word 'and' was an error. Its use created ambiguity and the potential for misinterpretation. FSANZ notes in this regard the industry submissions on the need for clarification.</p> <p>Item [6] of the draft variation has been amended to improve clarity. See above.</p>
<p>This is not a minor technical amendment and is not appropriate to be amended via a Code Maintenance Proposal.</p>	<p>NZFS</p>	<p>P1063 is not a Code Maintenance Proposal. It is a 'General Level' proposal. As such, it has been subject to statutory requirements requiring full notification and consultation. See section 2.4.1 of this report. The statutory notification, together with the Proposal's title and other published details, alerted and made it very clear to stakeholders what this Proposal is about.</p>

2.2 Risk assessment

All of the issues considered are minor in nature and the amendments fall into the broad category of correcting errors and reducing ambiguity. Items [1] to [6] of the approved draft variation include amendments to improve clarity and consistency across the Code.

No potential public health and safety concerns have been identified.

2.3 Risk management

Having regard to all submissions received, and for the reasons set out in this report, FSANZ's decision is to approve an amended version of the draft variation proposed in the call for submissions.

The draft variation was amended to improve clarity in the conditions for 'no added sugar(s)' nutrition content claims. In short, the draft variation was amended to:

- replace condition (b)(i) with new condition (b), which expressly provides that the food for sale must not contain an added sugar as an added ingredient;
- replace condition (b)(ii) with new condition (c), which expressly provides that the food for sale must not contain more sugars than: 10 g/100 g for solid food; or 7.5 g/100 mL for liquid food; and

- renumber other conditions as a consequence of the above.

The draft variation was amended to provide transitional arrangements. As explained, the approved draft variation amends the conditions for making 'no added sugar(s)' claims set by Proposal P1062 and removes a term made redundant by the amendments made by that Proposal. The P1062 amendments are subject to transitional arrangements set by that Proposal whereby during specified transitional periods a relevant food for sale can comply with either the Code as in force as if the P1062 amendments had not taken effect, or with the Code as amended by those amendments. The P1063 draft variation was amended to make clear how its amendments apply and operate subject to the P1062 transitional arrangements. See in this regard clause 4 of the approved draft variation and the related explanation in the Explanatory Statement.

A number of format changes were also made to the draft variation.

The approved draft variation confirms the intent that a 'no added sugar(s)' claim is not permitted if a food:

- contains, or is, an 'added sugar' (as defined);
- does not contain 'added sugar' but contains more than the prescribed amount of sugars (i.e. monosaccharides and disaccharides).

The approved draft variation also ensures the Code remains current by removing a redundant term. The approved draft variation is at Attachment A.

2.4 Risk communication

2.4.1 Consultation

Consultation is a key part of FSANZ's standards development process.

FSANZ called for submissions regarding the draft variation from 31 May 2024 to 27 June 2024. The call for submissions was notified via the Notification Circular, and through FSANZ's social media channels and Food Standard News. Subscribers and interested parties were notified about the availability of reports for public comment.

Seven submissions were received. All submissions were considered by the FSANZ Board as part of its assessment.

FSANZ acknowledges the time taken by individuals and organisations to make submissions on this Proposal. All comments are valued and contribute to the rigour of our assessment.

2.5 FSANZ Act assessment requirements

2.5.1 Section 59

2.5.1.1 Consideration of costs and benefits

Section 59 requires FSANZ to have regard to whether the direct and indirect benefits that would arise from a food regulatory measure developed as a result of this proposal will outweigh the costs to the community, government or industry that would arise from the development of that measure.

All amendments in the approved draft variation are minor in nature; and are not expected to impose costs on the community, industry or government, which are additional to those already generated by compliance with or enforcement of the current Code.

If the amendments are not made, errors and inconsistencies will continue to exist, and the Code will retain provisions known to be inadequate.

For those reasons, FSANZ considers it likely that the benefits to the community, government or industry that will arise from the approved draft variation would outweigh the costs that would arise from the development of that measure.

FSANZ did not prepare a regulation impact statement (RIS) for this proposal. This is due to the minor impact of the proposal (as described above). This is in line with previous advice from the Office of Impact Analysis (OIA) (for example in relation to P1061 – Code Maintenance Proposal 2023, OIA reference 22-03854). Under changes to impact analysis requirements, FSANZ is not required to seek confirmation from the OIA that a RIS is not required.

2.5.1.2 Other measures

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the Proposal.

2.5.1.3 Any relevant New Zealand standards

The standards affected by the amendments apply either in Australia only; or in both Australia and New Zealand. The amendments do not amend any New Zealand only standards.

2.5.1.4 Any other relevant matters

Other relevant matters are considered below.

2.5.2 Subsection 18(1)

FSANZ had regard to the three objectives in subsection 18(1) of the FSANZ Act during the assessment of the Proposal, that is:

- the protection of public health and safety
- the provision of adequate information relating to food to enable consumers to make informed choices
- the prevention of misleading or deceptive conduct.

FSANZ concluded that the approved draft variation will have little or no direct impact in terms of these objectives. As mentioned above, amendments in the approved draft variation are minor in nature and no potential public health and safety concerns have been identified.

2.5.3 Subsection 18(2) considerations

FSANZ has also had regard to:

- the need for standards to be based on risk analysis using the best available scientific evidence
- the promotion of consistency between domestic and international food standards
- the desirability of an efficient and internationally competitive food industry
- the promotion of fair trading in food
- any written policy guidelines formulated by the Forum on Food Regulation.

Attachments

- A. Approved draft variation to the Australia New Zealand Food Standards Code
- B. Explanatory Statement
- C. Draft variation to the Australia New Zealand Food Standards Code (call for submissions)

Attachment A – Approved draft variation to the Australia New Zealand Food Standards Code



Food Standards (Proposal P1063 – Code Revision (2024) - Added Sugar(s) Claims) Variation

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

Dated [To be completed by Delegate]

[Insert name of Delegate]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1063 – Code Revision (2024) – Added Sugar(s) Claims) Variation*.

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

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

3 Commencement

The variation commences on the date of gazettal.

4 Effect of the variations made by this instrument

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the product complies with one of the following:
 - (a) the Code as in force without the variations made by the instruments; or
 - (b) the Code as amended by the variations made by the instruments.
- (3) A food product that was packaged and labelled before the end of the transition period may be sold during the post-transition period if the product complies with one of the following:
 - (a) the Code as in force without the variations made by the instruments; or
 - (b) the Code as amended by the variations made by the instruments.
- (4) For the purposes of this clause:
 - (a) **the instruments** means:
 - (a) this instrument; and
 - (b) the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*;
 - (b) **transition period** means the period commencing on the date of commencement of this instrument and ending 48 months after the date of commencement of the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*; and
 - (c) **post-transition period** means the 24 month period commencing on the day after the transition period ends.

Schedule

Standard 1.1.2 – Definitions used throughout the Code

[1] Subsection 1.1.2—2(3) (paragraph (a) of the definition of *sugars*)

Repeal the paragraph, substitute:

- (a) in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides; and

Standard 1.2.7 – Nutrition, health and related claims

[2] Section 1.2.7—2 (Note 1, the definition of *sugars*)

Repeal the definition, substitute:

sugars, in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides. (Elsewhere in the Code it has a different definition).

Standard 1.2.8 – Nutrition information requirements

[3] Section 1.2.8—4 (Note 1, the definition of *sugars*)

Repeal the definition, substitute:

sugars, in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides. (Elsewhere in the Code it has a different definition).

Standard 2.6.2 – Non-alcoholic beverages and brewed soft drinks

[4] Section 2.6.2—2 (Note 1, paragraph (a) of the definition of *sugars*)

Repeal the paragraph, substitute:

- (a) in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides; and

Schedule 4 – Nutrition, health and related claims

[5] Section S4—2 (Note, the definition of *sugars*)

Repeal the Note, substitute:

Note In this Code (see section 1.1.2—2):

sugars:

- (a) in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides; and
- (b) otherwise—means any of the following products, derived from any source:
- (i) hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose;
 - (ii) starch hydrolysate;
 - (iii) glucose syrups, maltodextrin and similar products;
 - (iv) products derived at a sugar refinery, including brown sugar and molasses;
 - (v) icing sugar;
 - (vi) invert sugar;
 - (vii) fruit sugar syrup;
- but does not include:
- (i) malt or malt extracts; or
 - (ii) sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup, erythritol or lactitol.

Note **Sugar** is defined differently—see section 1.1.2—3.

[6] Section S4—3 (table entry dealing with “Sugar or sugars”, descriptor of ‘No added’ in column 3, conditions (a) to (g) in column 4)

Repeal the conditions, substitute:

- (a) The food for sale is not an added sugar.
- (b) The food for sale does not contain an added sugar as an added ingredient.
- (c) The food for sale does not contain more sugars than:
 - (i) 10 g/100 g for solid food; or
 - (ii) 7.5 g/100 mL for liquid food.
- (d) The food for sale has not had the concentration of hexose monosaccharides and disaccharides in that food increased by hydrolysis of carbohydrates during the production of that food.

- (e) Condition (d) does not apply if the concentration of hexose monosaccharides and disaccharides in that food is not > 1.5%.
- (f) For the purposes of conditions (a) and (b), an **added sugar** means any of the following derived from any source:
 - (i) hexose monosaccharides and disaccharides;
 - (ii) low energy hexose monosaccharide D-tagatose;
 - (iii) starch hydrolysate;
 - (iv) glucose syrup;
 - (v) maltodextrin and similar products;
 - (vi) a product derived at a sugar refinery (including brown sugar, molasses, raw sugar, golden syrup, treacle);
 - (vii) icing sugar;
 - (viii) invert sugar;
 - (ix) sugar and sugar syrup derived from plants;
 - (x) honey;
 - (xi) malt;
 - (xii) malt extracts;
 - (xiii) any of the following unless the food for sale is a prescribed beverage:
 - (A) concentrated fruit juice;
 - (B) concentrated vegetable juice;
 - (C) deionised fruit juice;
 - (D) deionised vegetable juice.
- (g) For the purposes of condition (b), an **ingredient** includes an ingredient of a *compound ingredient.
- (h) For the purposes of condition (f), a **prescribed beverage** means any of the following:
 - (i) a brewed soft drink;
 - (ii) a formulated beverage;
 - (iii) a juice blend;
 - (iv) a fruit drink;
 - (v) a fruit juice;
 - (vi) a vegetable juice;
 - (vii) a water-based beverage.

Attachment B – Explanatory Statement

EXPLANATORY STATEMENT

Food Standards Australia New Zealand Act 1991

Food Standards (Proposal P1063 – Code Revision (2024) – Added Sugar(s) Claims) Variation

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

The Authority prepared Proposal P1063 to make minor amendments to the Code. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation: the *Food Standards (Proposal P1063 – Code Revision (2024) – Added Sugar(s) Claims) Variation* (the approved draft variation).

2. Variation is a legislative instrument

The approved draft variation is a legislative instrument for the purposes of the *Legislation Act 2003* (see section 94 of the FSANZ Act) and is publicly available on the Federal Register of Legislation (www.legislation.gov.au).

The instrument is not subject to the disallowance or sunset provisions of the *Legislation Act 2003*. Subsections 44(1) and 54(1) of that Act provide that a legislative instrument is not disallowable or subject to sunset if the enabling legislation for the instrument (in this case, the FSANZ Act): (a) facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more States; and (b) authorises the instrument to be made for the purposes of the scheme. Regulation 11 of the *Legislation (Exemptions and other Matters) Regulation 2015* also exempts from sunset legislative instruments a primary purpose of which is to give effect to an international obligation of Australia.

The FSANZ Act gives effect to an intergovernmental agreement (the Food Regulation Agreement) and facilitates the establishment or operation of an intergovernmental scheme (national uniform food regulation). That Act also gives effect to Australia's obligations under an international agreement between Australia and New Zealand. For these purposes, the Act establishes the Authority to develop food standards for consideration and endorsement by the Food Ministers Meeting (FMM). The FMM is established under the Food Regulation Agreement and the international agreement between Australia and New Zealand, and consists of New Zealand, Commonwealth and State/Territory members. If endorsed by the FMM, the food standards on gazettal and registration are incorporated into and become part of Commonwealth, State and Territory and New Zealand food laws. These standards or instruments are then administered, applied and enforced by these jurisdictions' regulators as part of those food laws.

3. Purpose

The Authority approved a draft variation to remove a redundant term from the Code and to amend section S4—3 of the Code to remove an error and clarify the conditions for making ‘no added sugar’ nutrition content claims.

4. Documents incorporated by reference

The approved draft variation does not incorporate any documents by reference.

5. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority’s consideration of Proposal P1063 included one round of public consultation following an assessment and the preparation of a draft variation and associated assessment summary.

A regulation impact statement (RIS) has not been prepared for this proposal. This is because the amendments in the approved draft variation are considered unlikely to have more than a minor regulatory impact. This is in line with previous advice from the Office of Impact Analysis (OIA) on similar proposals (for example Proposal P1061 – Code Maintenance Proposal 2023, OIA reference 22-03854). Under changes to impact analysis requirements, the Authority was not required to seek confirmation from the OIA that a RIS is not required.

6. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 44 of the *Legislation Act 2003*.

7. Variation

References to ‘the variation’ in this section are references to the approved draft variation.

Clause 1 of the variation provides that the name of the variation is the *Food Standards (Proposal P1063 – Code Revision (2024) – Added Sugar(s) Claims) Variation*.

Clause 2 provides that the Code is amended by the Schedule to the variation.

Clause 3 provides that the variation commences on the date of gazettal of the instrument.

Clause 4 provides a transitional arrangement.

The transitional arrangement mirrors the transitional arrangements provided for the amendments made to the Code by *Proposal P1062 - Defining added sugars for claims*. This is because the approved draft variation’s amendments are consequential to those amendments.

Subclause 4(1) provides that the stock-in-trade exemption provided by section 1.1.1—9 of Standard 1.1.1 will not apply to any of the amendments made by the approved draft variation.

Subclause 4(2) provides an initial transitional arrangement where, during a transition period, a food product may be sold if the food product complies with either the Code as in force without the amendments made by the instruments; or the Code as amended by the instruments. Paragraph 4(4)(a) provides that ‘the instruments’ for this purpose are the

approved draft variation and the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*. Paragraph 4(4)(b) provides that the transition period is the period commencing on the date of commencement of the approved draft variation and ending 48 months after the date of commencement of the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

Subclause 4(2) provides a subsequent transitional arrangement where during a post-transition period a food product that was packaged and labelled before the end of initial four year transition period, may be sold if the product complies with either the Code as in force without the amendments made by the instruments (as defined by paragraph 4(4)(a)); or the Code as amended by the instruments.

Paragraph 4(4)(c) provides that the post-transition period is a period of 24 months that commences on the day after the transition period ends.

Items [1] to [6] of the Schedule to the variation amend Standards and Schedules in the Code.

Item [1] amends the definition of *sugars* in subsection 1.1.2—2(2) of the Code. The Item removes the following words from paragraph (a) of that definition '(except where it appears with an asterisk as 'sugars*')'. These words and the term 'sugars*' were made redundant by amendments to the Code made by *Proposal P1062 - Defining added sugars for claims*. Those amendments in effect removed the provisions of the Code that used and relied on that term.

Item [2] removes the words '(except where it appears with an asterisk as 'sugars*')' from the definition of *sugars* in Note 1 to section 1.2.7—2. The reason for this amendment is explained above.

Item [3] amends Note 1 to section 1.2.8—4 by removing the following words from the definition of *sugars* in that Note '(except where it appears with an asterisk as 'sugars*')'. The reason for this amendment is explained above.

Item [4] amends paragraph (a) of the definition of *sugars* in Note 1 to section 2.6.2—2 by removing the following words from that paragraph '(except where it appears with an asterisk as 'sugars*')'. The reason for this amendment is explained above.

Item [5] repeals and replaces the Note to section S4—2. The amendment made by the Item replaces the current definition of *sugars* in that Note with a new definition of *sugars*. The effect of the amendment is to remove the words '(except where it appears with an asterisk as 'sugars*')' from the definition. The amendment also removes the Note to the definition of *sugars*, which states '*Sugars** is relevant for claims about no added sugar.'

Item [6] of the Schedule amends the table to section S4—3 of the Code. The Item amends the entry in that table dealing with the property of food "Sugar or sugars". It repeals and replaces the conditions listed in column 4 for the use of the descriptor 'No added'.

The amendment:

- replaces condition (b)(i) with new condition (b), which provides that the food for sale must not contain an added sugar as an added ingredient;
- replaces condition (b)(ii) with new condition (c), which provides that the food for sale must not contain more sugars than: 10 g/100 g for solid food; or 7.5 g/100 mL for liquid food; and
- renumbers conditions (c) to (g) as (d) to (h) as a consequence of the above amendments.

The amendment's effect is to correct an error (that is, by removing the word 'and' in condition (b)(i)) and make clear the regulatory intent of the relevant provisions.

Attachment C – Draft variation to the Australia New Zealand Food Standards Code



Food Standards (Proposal P1063 – Code Revision (2024) - Added Sugar(s) Claims) Variation

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

Dated: 11 July 2024

Luci Henson, General Manager Corporate Services
Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC **XX on XX Month 20XX**. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1063 – Code Revision (2024) – Added Sugar(s) Claims) Variation*.

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

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

3 Commencement

The variation commences on the date of gazettal.

Schedule

Standard 1.1.2 Definitions used throughout the Code

[1] Subsection 1.1.2—2(3) (paragraph (a) of the definition of *sugars*)

Repeal the paragraph, substitute:

- (a) in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides; and

Standard 1.2.7

[2] Section 1.2.7—2 (Note 1, the definition of *sugars*)

Repeal the definition, substitute:

sugars, in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides. (Elsewhere in the Code it has a different definition).

Standard 1.2.8

[3] Section 1.2.8—4 (Note 1, the definition of *sugars*)

Repeal the definition, substitute:

sugars, in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides. (Elsewhere in the Code it has a different definition).

Standard 2.6.2

[4] Section 2.6.2—2 (Note 1, paragraph (a) of the definition of *sugars*)

Repeal the paragraph, substitute:

- (a) in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides; and

Schedule 4

[5] Section S4—2 (Note, the definition of *sugars*)

Repeal the Note, substitute:

Note In this Code (see section 1.1.2—2):

sugars:

- (a) in Standard 1.2.7, Standard 1.2.8 and Schedule 4—means monosaccharides and disaccharides; and
- (b) otherwise—means any of the following products, derived from any source:
 - (i) hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose;
 - (ii) starch hydrolysate;

- (iii) glucose syrups, maltodextrin and similar products;
 - (iv) products derived at a sugar refinery, including brown sugar and molasses;
 - (v) icing sugar;
 - (vi) invert sugar;
 - (vii) fruit sugar syrup;
- but does not include:
- (i) malt or malt extracts; or
 - (ii) sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup, erythritol or lactitol.

Note *Sugar* is defined differently—see section 1.1.2—3.

[6] Section S4—3 (table entry dealing with “Sugar or sugars”, descriptor of ‘No added’ in column 3, subparagraph (b)(i) in column 4)

Omit “an added sugar as an added ingredient; and”, substitute “an added sugar as an added ingredient; or”