![Food Standards Australia New Zealand logo — Te Mana Kounga Kai – Ahitereiria me Aotearoa]

Supporting document 2

Table of matters identified in the legislative audit report and responses – Proposal P1025

Code Revision

FSANZ response to OLDP principal recommendations:

(a)   provide for the *Acts Interpretation Act 1901* (Cth) to apply to the interpretation of the Code
      − The draft food regulatory measure implements this recommendation, which maintains the current legal position, ie that the Code is to be interpreted pursuant to the Commonwealth interpretation law.

(b)   provide for words that have been defined in the model provisions (Annex A of the Food Regulation Agreement 2008) and the Food Acts in the States and Territories to apply for the Standards
      − The draft food regulatory measure implements this recommendation.

(c)   examine the provisions in the Code that impose requirements to determine whether, for each provision, it is properly integrated with the relevant model offence provision. In order to be effective, a requirement that is enforced under model offence provision 17 (1) must identify the person responsible for the requirement.
      − The draft food regulatory measure implements this recommendation.

(d)   examine provisions in the Code that impose requirements to ensure the language has certainty of meaning and operation that is needed for them to operate with the offence provisions
      − The draft food regulatory measure implements this recommendation.

(e)   list all defined terms in a single place. This should include full definitions where appropriate, and signposts where it's more appropriate to provide the definition elsewhere
      − Definitions are, as appropriate, collated in new Standard 1.1.2

(f)   make sure that terms have a single meaning in the Code unless this is unavoidable. If terms are defined to have a different meaning for different places, provide signposts in the general definitions clause (eg, **process**, for Part X, has the meaning given by ....; for Part Y, has the meaning given by...)
      − The draft food regulatory measure implements this recommendation.

(g)   redraft definitions that include compositional requirements to take the requirement out of the definition and draft compositional requirements separately
      − The draft food regulatory measure implements this recommendation, as appropriate.

(h) the Code has general prohibitions that are supplemented by permissions that qualify the prohibitions. The permissions are scattered around the Code. The recommendation is to, as far as is possible, remove the permissions and recast general prohibitions so that they express a rule fully (eg, the rule is X, unless Y, Z and A)
   − The draft food regulatory measure includes a general prohibition and clear signposts to relevant permissions

(i) amend the Code to keep references to incorporated material up to date
   − The draft food regulatory measure implements this recommendation

(j) restructure the Code by consolidating the Standards so that they form a single Standard, or, by consolidating smaller portions of the Code, eg the Chapters, so that the Code is made up of fewer discrete documents
   − In response to submission, this recommendation is not implemented. The Code can be presented as a single instrument.

(k) consider how information in the Code may be restructured for better readability, including ways of grouping the requirements
   − The draft food regulatory measure implements this recommendation

(l) in the consolidated Code, place Schedules either at the back of the Code or at the back of smaller consolidated divisions (eg, Chapters)
   − In the draft food regulatory measure schedules are placed in separate standards that can be published either at the back of the relevant standard or as a separate volume of schedules at the end of the Code.

(m) redesign the information in tables and Schedules to make them easier to understand, and (for Schedules) to clearly relate them to empowering provisions in clauses
   − The draft food regulatory measure implements this recommendation

(n) recast purpose statements to distinguish properly between purposes and outlines
   − The draft food regulatory measure implements this recommendation

(o) use OLDP templates so that the appearance of the Code is consistent with other legislation on the statute book
   − The draft food regulatory measure implements this recommendation, applying Commonwealth drafting templates developed by the Australian Government Solicitor.