

27 September 2013

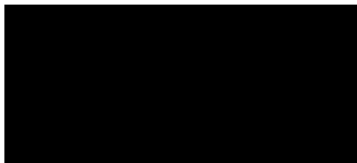
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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the **Call for Submissions – P1025 Code Revision**.

Yours sincerely



Katherine Rich
Chief Executive

Food Standards Australia New Zealand
P1025 CODE REVISION
Call for Submissions
27 September 2013

The New Zealand Food & Grocery Council (the “NZFGC”) welcomes the opportunity to make a submission on *P1025 Code Revision*.

New Zealand Food & Grocery Council

The NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. Collectively this sector generates over \$28 billion in the New Zealand domestic retail food, beverage and grocery products market and over \$26 billion in export revenue from exports to 183 countries. Food and beverage manufacturing is the largest manufacturing sector in New Zealand representing 46% of total manufacturing income and 34% of all manufacturing salaries and wages.

Food and beverage manufacturing and wholesaling in New Zealand directly employs over 100,000 people (5% total employment) and, when taking the wider food and beverage value chain (including farming and food retailing/foodservice) into account, employment soars to almost 350,000 in over 85,000 enterprises. This represents around one in five people employed in our country.

No matter how you look at it, the New Zealand food, beverage and grocery sector makes a substantial contribution to the New Zealand domestic economy, to our exports and to the general economic well-being of the country.

EXECUTIVE SUMMARY

Need for Revision

NZFGC appreciates that the revision of the Food Standards Code was triggered in part by a judgement from the NSW Supreme Court in 2008 (Judgement 74 NSWLR 148). At some stage, however, a revision would have been needed in order to address the many inconsistencies that were an inevitable consequence of a review and development project spanning several years and not being brought together until near the end of that project.

The NZFGC therefore is strongly supportive of the revision and considers that even though it too has taken some years and has only emerged publicly in 2013, it has been worth the wait. This is not to diminish the reality that there is some way to go. The most important fact is that the revision is not tightly deadlines. The NZFGC believes it is more important to get the revision right than for it meet arbitrary deadlines. Nonetheless, having seen the benefits that can accrue from the work, NZFGC is keen to see the work progress as quickly as possible.

Structure

The NZFGC generally supports the restructuring of the Food Standards Code. Cohesion is enhanced by the look and feel of a single document. It is a huge advantage to be able to search a single document or a couple of document and it is through this that further inconsistencies have been so readily identifiable. NZFGC would not oppose a reversion to a

separation of the Chapters in the Code if this was deemed more efficient for the purposes of the gazettal of amendments.

NZFGC is also not opposed to a separate schedule of large tables. Whether using the Code online or in hard copy, there is advantage in having such separation. Nonetheless, there are a number of instances where small tables or equations are located in the Schedules when their utility would be greatly enhanced by being reinserted into the body of the standards of the Code. NZFGC has identified these throughout the following comments on the Code and has particularly focussed on those sections in the Schedules where requirements have been split between a Division/standard and the Schedules.

Definitions and Concepts

NZFGC strongly supports the collocation of definitions in section 1.06 at the start of the Revision. The key problem is that the list is not complete. NZFGC strongly supports a complete list. The situation is such that around 55 definitions still remain unsignposted or otherwise not included in section 1.06. NZFGC's strong preference is for all definitions to be identified in section 1.06 irrespective of their application to sections, subdivisions, divisions or the Code. It is also the case that some definitions should be in this section in full especially when they apply to the whole Code. The term 'fat' is a good example.

The most significant issues for NZFGC are with the definitions or concepts of terms that apply across the Code. A few of the most significant that are dealt with in more detail in the detail of the submission are:

- definition of 'ingredient' – this is so wide as to be unusable in its new form since it refers to "any food that 'comes in contact with a second food after processing such that traces are left in the second food, the food becomes an ingredient.'" (paragraph 1.17(1)(b);
- definition and use of the term 'food product' – NZFGC understand the intent behind its development but its application is so broad especially in relation to labelling requirements, as to leave many ingredients supplied to manufacturers outside the labelling provisions. While generally the NZFGC is supportive of less regulation, in this instance there would be a consequential loss of traceability and identity that is vital for the manufacturing sector. As well, 'food product' has been used in many places to replace 'final food' but 'final food' is retained in other places. The term 'final food' is critical in the manufacturing process as it often describes the point at which mandated measurements are made. It is also the case that 'food product' is not a term used in the New Zealand Food Act 1981 and potentially raises problems of applicability within that Act. NZFGC therefore considers a rethink of the use of this term and its possible deletion be undertaken;
- 'used as a processing aid' and 'used as a food additive' are both terms that are now defined more narrowly than is currently the case. In relation to 'processing aid' the application is, however, wider with the impact being that where currently a processing aid is generally not required to be included in the ingredients list, this exemption appears to be lost when applied in some areas. The impact is therefore significant change, a consequence that goes beyond the scope of P1025;
- definition of 'labelling' – labelling is a commonly used conjugation of the verb 'to label'. For the Code, however, it is defined as a noun meaning 'all the labels on food product'. This is confusing enough but its use in the revised Code is sometimes as the verb with the usual meaning and sometimes as the defined term and sometimes it is unclear what its use is. NZFGC strongly suggests it not be defined as a noun and that another term such as 'all labels' would be more appropriate.

The placement of definitions at the end of sections, subdivisions and divisions is a constant and substantial irritation throughout the Code. Often terms are used throughout a part of the Code in advance of their definition which is confusing and frustrating.

Finally, the definition of terms in alpha order instead of in the order that they are used in an equation is confusing as this is contrary to the standard approach in mathematical equations and the current Code where terms are defined in the order in which they are used.

Content of standards

Overall, the NZFGC supports the reordering of sections within and between standards. The current sequence has been, at times, a feature of the sequential development of the Code and the opportunity to make corrections has been taken in this revision. There are some areas that have been identified as having substantial consequences and potentially significant cost implications should they not be addressed. Some examples are:

- labelling of products not for individual sale (section 1.32);
- provisions relating to prohibition on altering labels (section 1.47);
- general legibility requirements (section 1.50);
- levels of L-amino acids in infant formula in relation to protein (section 2.89);
- general compositional requirements for food for infants (section 2.106).

Implementation

The NZFGC has two major concerns in regard to implementation – loss of editorial notes and examples and the accuracy of the concordances.

Many editorial notes have been retained as notes in the revision of the Code while some new ones have been added. Many others, however, have been deleted and it would be vital for these to be collated into a guidance document for companion use with the Code. This might become a responsibility for the Implementation Sub Committee of the Food Regulation Standing Committee and NZFGC would be pleased to participate in any such activity.

The Concordances have been very useful in identifying where clauses are located in the revision or the source of sections in the revision. However, they are neither complete nor accurate in some areas. NZFGC considers these to be of enormous assistance to all those currently using the Code and while this use may be limited to just a few years, their value for training and re-familiarisation cannot be underestimated. NZFGC has made comments on these where errors have been identified but has not separately assessed every entry.

Costs of change

NZFGC considers there will inevitably be some cost associated for member with the Revised Code. This will be substantially reduced when a number of the issues identified at this stage have been addressed. However, the final cost is not likely to be as substantial as first considered. The main areas of concern have been for:

- amendments to ancillary documentation such as internal control and process and procedure documents
- specifications associated with products such as for genetic modification and allergens

A Regulatory Impact Statement (RIS) is still considered appropriate to identify where the costs will lie and for this reason, NZFGC supports the preparation of a RIS going forward.

Preparation of this submission

NZFGC had substantial and detailed assistance in the preparation of this Submission from many members on its Health & Technical Working Group. This Submission therefore has direct input from the following companies:

- Frucor Beverages Ltd
- Goodman Fielder NZ Ltd
- Griffins Foods Ltd

- Fonterra
- HJ Heinz
- Lion Nathan
- Mars NZ
- Nestle NZ Ltd
- Network PR
- Sanitarium Health & Wellbeing
- Vitaco Health Ltd.

Other agencies variously involved include Massey University (Auckland), the Infant Nutrition Council, the New Zealand Juice and Beverage Association and the Australian Food and Grocery Council.

Next steps

NZFGC has appreciated the additional time that was able to be provided for this first public consultation. The extent of the task of review was not fully appreciated until the initial steps of review were undertaken. In order to assist in the next round of public consultation, it would be of enormous benefit for changes to the draft revised Code to be track changed so that time is not spent in trying to work out where the changes have been, an exercise that could take a substantial and unnecessary period of time.

In terms of transition, there are advantages and disadvantages with a longer rather than shorter transition. The key advantage of a longer transition is that the process of familiarisation and any consequential changes to other documentation can be done in a measured and evenly paced way. On the basis that the changes should not result in any reformulation or relabeling, other changes could still take some time. The key disadvantage of a longer transition would be the need to make parallel updates to two versions of the Code as amendments continued to be made. This has already been identified with the current revised document being consulted on.

The key advantage of a shorter transition is that uptake would be more immediate and there would be less likelihood for confusion between the current and new Codes to take place. The key disadvantage is that there could be unexpected impacts from the revision that could be better handled over a longer period. On balance NZFGC favours a one year transition.

In conclusion NZFGC again commends FSANZ for undertaking this project. We are confident the end result will be a greatly enhanced, clearer and more usable set of requirements to take us into the future.

DETAILED COMMENTS

Chapter 1—Introduction and standards that apply to all foods

Part 1—Preliminary

Division 1—Status of Code

This Division comprises three sections listed below. These sections have no impact. The overview is a helpful outline of the Code. The sections are:

1.01 Name

1.02 Commencement

1.03 Overview

Division 2—Interpretation

1.04 Application of interpretation legislation

This section, while removing doubt as to the application of the respective Interpretation Acts, was not necessary for New Zealand. As a standard under the Food Act 1981, the relevant standards in the *Australia New Zealand Food Standards Code* have always been subject to the New Zealand *Interpretation Act 1999*.

1.05 Reference to other instruments

This section is drawn from various clauses in Standard 1.1.1 and the revision has no impact.

1.06 Definitions

Collocating definitions more comprehensively in this section is extremely helpful and is strongly supported. An analysis of the definitions in this section will be provided separately and in slower time.

The first problem is the list is not complete. The NZFGC considered a range of options in relation to this section including it remaining as is, it including further definitions that apply to the Code as a whole, it including all other definitions used in the Code irrespective of the extent of their application. The section already includes definitions and sign-posts to definitions that variously apply throughout the Code and to more limited parts of the Code. NZFGC strongly favours the inclusion of all definitions in this section. This will mean the inclusion of around 55 signposts. NZFGC will provide this list also separately at a later date.

The second problem is that some signposts go to sections that do not contain the definition.

The third problem is that some definitions that are signposted should be included in section 1.06 in full. The best example is the definition of 'fat' which is only four words, applies to the whole Code but is found in a Division within the revised Code.

1.07 Meaning of RDI and ESSADI

The title of this section should read 'ESADDI'. Sections S1.03 and S1.04 in Schedule 1 are very small. S1.03 contains the conversion factors for carotenoid forms of vitamin A for the calculation of retinol equivalents and has only 4 entries. S1.04 contains conversion factors for Vitamin E forms for the calculation of retinol equivalents has 7 entries. These small tables would be far more useful to have in the main body of the Code in subsection 1.07(2).

1.08 Meaning of *medical institution*

This section is drawn from subclause 8(1) of Standard 1.2.1 and the Table to clause 8. The revision converts the table to two lists and provides descriptions of the various institutions in what appear to be definitions. The descriptions should be preceded by a subsection heading. If they are definitions, they should be signposted in section 1.06. There is no impact from the revision.

1.09 Phytosterols, phytostanols and their esters

This section is drawn from subclauses 15(1) and 15(2) in Standard 1.1.1. Clause 15 refers to provisions in Standard 1.3.4 which are now located in S3.23 of Schedule 3 in the revised Code. Schedule 3 contains all the specifications that were in the schedule to Standard 1.3.4. there is no impact from this revision.

1.10 Units of measurement

This section reflects clauses 6 and 8 in Standard 1.1.1. Schedule 2 now contains the terms that form clause 8. There is no impact from the revision or with the table remaining in Schedule 2.

1.11 Meaning of *average quantity*

This section is drawn from clause 2 in Standard 1.1.1. 'Producer' is added as an alternative to the manufacturer undertaking the 'average quantity' calculations except that this has not been applied to paragraph 1.11(2)(c). 'Manufacturer' needs to be added this paragraph.

Subsections 1.11(1) and (2) refer to the calculation of average quantity of a substance in a food. However, subsection 1.11(3) concerning a reference in the Code to the 'average quantity' of a 'substance' where no quantity is specified is taken to mean the 'average quantity' of the substance in a 'food product'. This seems to assume that the only time no quantity is specified is in the final food. This is not always the case. It is therefore limiting. It is suggested that subsection 1.11(3) might cover both 'food' and 'food product' as the case may be.

1.12 Compliance with requirements relating to warning statements

This section reflects in part clause 12 in Standard 1.1.1 but also, in subsection 1.12(1) the expectation in relation to mandatory warnings. There is only one mandatory warning and that concerns royal jelly where the precise words are set out (clause 3 in Standard 1.2.3). The declarations relating to allergens would, for example, be unaffected. The revision removes doubt about the requirements associated with warnings and the flexibility to modify other information.

Division 3—Application of Code and effect of variations to Code

1.13 Application of Code

This section is based on subclauses 1(1) and 1(5) in Standard 1.1.1 and contains some new subsections.

Subsection 1.13(1) reflects subclause 1(1) in full and there is no impact from revision.

Subsection 1.13(2) is new and lists those sections that do not apply in New Zealand. Since this is made clear in each relevant section (in a range of ways), this subsection is informational only and duplicates existing information. Given the ability to search the entire revised Code in future, this information would be readily retrievable and the duplication should be removed. This same comment applies also to subsection 1.13(3) which sets out the provisions in the Code that do not apply in Australia.

Subsection 1.13(4) reflects subclause 1(5) in Standard 1.1.1 and the revision has no impact.

1.14 Effect of variations to Code

This section is based on subclause 1(2) in Standard 1.1.1 and contains a new subsection. Subsection 1.14(1) refers to the impact on food products before and after variations and that the default period for compliance is one year after the variation. The problem is that now that 'food product' is defined, this means there is no clarity around the effect of variations on food that is not food products such as ingredients. The subsection should refer to 'food' and 'food products'.

Subsection 1.14(2) is also limited to ‘food products’ and should more properly refer to ‘food’ as well.

Part 2—Basic concepts and basic requirements

Division 1—Basic concepts

Overall, NZFGC is not opposed to a number of fundamental concepts being separately defined. However, a number of those in the revision have what appear to be unintended consequences that will warrant a reconsideration of the concepts before they can be effectively included.

1.15 Basic concepts—*food*

This section is new and comprises quite lengthy notes that replicate the definitions of ‘food’ from the Model Food Act in Australia and the *Food Act 1981* in New Zealand. This is an excellent clarification and removes any doubt as to the definition of ‘food’ that should apply.

1.16 Basic concepts—*food product*

This section is new and establishes the concept of food product as being the product ‘sold to a consumer’. The intention is to clarify the stage of production of food to which a provision applies. Previously and still in sections 1.23(5), 1.101(9), 1.113, 1.114, 1.115(3), 1.124(5) and 2.111(1)(a), ‘final food product’ is referred to. The New Zealand *Food Act 1981* does not define ‘food product’ so there is now a disjoint between the Code and the *Food Act 1981*. It is also the case that in places, the term ‘final food’ is critical for manufacturers and at times this term has not been used in favour of ‘food product’.

Of more concern is the application of many of the labelling provisions to ‘food product’ only. While NZFGC is a strong advocate of less and better regulation, in this case unintended consequence is to exempt foods that are not for sale to the consumer from labelling. For manufacturers, there is a need for labelling of inputs for both traceability and contractual purposes. It is therefore suggested that this definition not be used and that either ‘food’ or ‘final food’ be used. Alternatively, if the term ‘food product’ is retained, it is suggested that every occurrence be considered in light of manufacturer needs as well as application for ‘sale to a consumer’.

1.17 Basic concepts—*ingredient and compound ingredient*

This section is based on clause 1(1) in Standard 1.2.4 but there is very little in common with the current definitions of ‘ingredient’ and ‘compound ingredient’ and the proposed new definitions. The new definitions are excessively broad and will have significant labelling and composition implications.

The first issue is with subparagraph 1.17(1)(a)(ii) which states that irrespective of any traces left in a food, a food added to another is an ingredient. This means that all processing aids become ingredients when that is not the current situation. The examples are quite alarming, such that any substance that completely breaks down during processing, even if no trace exists in the final food such as alcohol that completely evaporates becomes an ingredient. As noted, this has significant implications for a substantial part of the food supply.

The second issue concerns paragraph 1.17(1)(b) which provides that any food that ‘comes in contact with a second food after processing such that traces are left in the second food, the food becomes an ingredient. This is so broad as to have implications for substances that are endemic in the environment becoming ‘ingredients’ and has potentially significant implications for food manufacture. This concept needs to be reconsidered and recast before the revised Code proceeds.

1.18 Basic concepts—component

This section is based on the definition of component in clause 2 of Standard 1.1.1. However, the revision appears to be much broader than the current definition. The interpretation of the current definition is that an ingoing substance such as food additive, or a component of a food for which a claim is made, is a component of the food. The revised definition suggests that any breakdown products become components if they are identifiable. The example is carbon dioxide and salt as breakdown substances of sodium bicarbonate. The problem becomes one of separating breakdown substances from other 'environmental' substances such as substances in the air – oxygen and CO₂. In fact they become indistinguishable.

1.19 Basic concepts—used as a nutritive substance

This section replaces the definition of 'nutritive substance' in clause 2 of Standard 1.1.1. It is attempting to capture a range of substances that might otherwise not be covered as 'nutritive substances'. However, it seems that in its current form it may limit innovation and development insofar as consumers are increasingly demanding 'natural' foods and the constraint on a 'substance used as a nutritive substance' being 'extracted, refined or synthesised' may be barrier to substances used as nutritive substances in the future.

1.20 Basic concepts—sell

This section is new and comprises quite lengthy notes that replicate the definitions of 'sale' or 'sell' from the Model Food Act in Australia and the *Food Act 1981* in New Zealand. This is an excellent clarification and removes any doubt as to the definition of these terms that should apply.

Division 2—Basic requirements

1.21 Requirements relating to food product on sale

This section is new and comprises quite lengthy notes that replicate constraints on or requirements of selling food from the Model Food Act in Australia and the *Food Act 1981* in New Zealand. This is problematic in New Zealand because 'food product' is undefined and so the provision is limited to consumer ready goods. As with section 1.16 above, this means that ingredients or other substances used in manufacture are excluded. This is particularly limiting with the application of this section to packaging, labelling and the provision of information. It has the potential to make specification of requirements by the manufacturer difficult if they are not visible in the Code.

1.22 Requirements relating to food product on importation

This section provision is described as being 'implicit' in paragraph 1(1)(b) of Standard 1.1.1. The provision seems to repeat in specific terms, the general statement in paragraph 1.13(1)(b) the applies the Code to imports. It is unclear why this specific statement is required for consumer ready or final foods.

1.23 Operation of compositional requirements

This section purports to reflect the few lines that are clause 14 of Standard 1.1.1 concerning compositional definitions of food. Section 1.23 is very much broader and introduces the terms 'sold on the basis of a representation that'. It also covers 'specified names' which are undefined but which appear to be any names used that might mean a food – the example of beer being 'unhopped' if it is not made with hops is new. It would be clearer to say that a beverage that is not made with hops is not a beer for the purposes of the relevant section that defines 'beer made with hops'. The term 'sold on the basis of a representation that' is not defined and it is therefore unclear if this refers to composition, labelling, look, taste or some other attribute. This lack of clarity and the constant use of the phrase is confusing and potentially unnecessary.

1.24 Other requirements relating to food

This section is new and states obvious requirements.

1.25 Identity and purity

This section reflects Standard 1.3.4. the key difference is that all the specifications originally in the Standard are now in Schedule 3 which is comments on later in this submission. There is no impact from the revisions.

Part 3—labelling and other information requirements

Division 1—Requirements to have labels or otherwise provide information

Subdivision A—Introductory

1.26 Outline of Division

FGC notes that subsections (1) to (4) cover Subdivisions A to D. For completeness, FGC suggests the addition of the following subsections:

“1.26(5) Subdivision E sets out prohibitions relating to labels.

1.26(6) Subdivision F sets out legibility requirements.”

1.27 Meaning of *label*, *labelling* and *bear a label*

This section is based on subclause 1(2) of Standard 1.2.2 but goes well beyond that subclause. There is no issue with application of the term ‘label’ or ‘bear a label’ both of which are used extensively in the current Code.

The key issue is with the term ‘labelling’. This is defined in the revision as:

“***labelling***, in relation to a food product being sold, means all of the labels for the food product together.”

Labelling is a commonly used conjugation of the verb ‘to label’. For the Code, however, it is defined as a noun meaning ‘all the labels on food product’. This is confusing enough but its use in the revised Code is sometimes as the verb with the usual meaning and sometimes as the defined term and sometimes it is unclear what its use is. For example, the title of Part 3 is ‘Labelling and other information requirements’ appears to be the verb but could be either. However, its use later in this section (paragraph 1.27(2)(b) reads ‘a requirement for the labelling of a food product to include specified content is a requirement for at least one of the labels to have that content’ can only refer to the verb because otherwise there would be no need to refer to ‘at least one of the labels’.

Another example is its use in the term ‘country of origin labelling’ (sections 1.32 and 1.39) which clearly does not mean ‘country of origin all of the labels of the food product’. Some selected further examples are in subsection 1.33(1) and in sections 1.40, 1.45 1.53 and subsection 1.74(a). As well, the phrase used throughout the revision: ‘for the labelling provisions’ seems to only make sense if this is the verb and not the noun.

It is suggested that the term ‘labelling’ not be defined and instead a term such as ‘all labels’ or similar be defined.

1.28 Meaning of *catering sale*

The key change has been to replace ‘supplied to’ with ‘a sale of’. Using the definitions of sale in the Food Act 1981, there is no impact of the change.

Subdivision B—Retail sales of food products

1.29 When this Subdivision applies

The definition of retail sale has been deleted. There is no definition of ‘retail sale’ or ‘retail’ in the Food Act 1981. This means the term is not clear. It is recommended that a definition of retail be reinserted that reflects the ‘consumer ready’ nature of a retail food product.

1.30 Outline of Subdivision

This is new and is helpful to the user.

1.31 When the food product must bear a label

Subsections (1) and (2) are, with minor amendments, drawn from clause 2 in Standard 1.2.1 and there is no impact.

Subsection (3) deals with layers of packaging and is drawn from paragraph 1.2.1 3(e). The redraft is clearer and has no impact.

Subsection (4) is drawn from paragraph 2(1)(b) in Standard 1.2.1. This seems to reverse the exemption from labelling other than for allergens and warnings by requiring products not for individual sale to 'bear a label'. This would have a significant impact on labelling and costs of products not for individual sale.

1.32 Australia only

FGC appreciates the clarity of application of this section by the title being preceded by 'Australia only'.

1.33 Information required on general label

This section is drawn from many clauses and many standards.

Section (1) is a series of cross references reflecting in part subclause 2(2) in Standard 1.2.1. Several new cross references are added reflecting labelling requirements across the balance of the Code that are currently located in individual standards. This improves the clarity of this requirement.

Subsection (2) concerning the labelling of hampers is drawn from subclause 2(4) in Standard 1.2.1. Paragraphs 2(4)(a) and (b) are recast as paragraphs 1.33(2)(a) and (b) and have no impact. Paragraph 1.33(2)(c) requiring the hamper to carry the name and address of the supplier of the hamper is drawn from Standard 1.2.3 3(1) but is new in relation to its collocation with provisions concerning hampers. This clarifies the requirement and has no impact. However, for those hampers that have not carried a label before, this would be a new requirement carrying with it a cost (the current provision applies only when a package carries a label).

Subsection (3) referring to the labelling of retail sales of products in individual portion packs.... TBC

Subsection (4) sets out requirements for vending machines selling food. The current provision in Standard 1.2.2 subclause 3(2) requires the name and address of the person supplying the food for vending and has been interpreted as the business stocking the vending machine. Sometimes this is the food manufacturer if a vending machine is dedicated to a single brand of products. At other times one business may collect a range of food products from a range of manufacturers and stock the machine. The name and address is then the stocking business. Reference to 'labels ... in or on the vending machine' could refer to both the labels on the food in the machine and any labelling on the vending machine itself. This would expand the current provisions considerably. The reference to label should be removed.

Standard 1.2.3 subclause 3(2)(b) requires mandatory warning statements displayed on or in connection with food dispensed from a vending machine. This requirement has been removed and presumably must be on the food label on food dispensed from the vending machine.

1.34 Information requirements for food product that does not need to bear a label

Requirements for this section are drawn from a number of standards and reflect the combinations of how information about unpackaged food products is to be provided to the purchaser:

- accompany or displayed
- accompany only
- displayed only
- provided only
- accompany, displayed or provided on request.

At some time in the future these requirements should be rationalised.

Subdivision C—Sales of food products to caterers

1.35 When this Subdivision applies

The subdivision reflects the provisions of clause 5 in Standard 1.2.1.

1.36 Outline of Subdivision

This is new and is helpful to the user.

1.37 When the food product must bear a label

This section repeats several previous provisions but does so presumably to remove doubt. This is helpful and has no impact.

1.38 When information must be provided with the food product

This section reflects the requirement in subsection 5(3) of Standard 1.2.1 and has no impact.

1.39 Australia only

1.40 Information required to be on labelling

This section reflects the requirements in subsection 5(3) of Standard 1.2.1 and has no impact.

1.41 Other information that must be provided

This section seems to duplicate much of section 1.40 and should be reviewed to remove duplication.

1.42 Information that can be requested

This section is supposedly drawn from subclause 6(4) of Standard 1.2.1. However, subclause 6(4) is limited to compositional, labelling, or other declarations. This may extend the requirement to provisions relating to production/pre-market assessed foods and microbiological status. These requirements are obligations of the food seller and should be a commercial requirement between supplier and seller, not a new requirement of the Code.

Subdivision D—Other sales of food products

1.43 When this Subdivision applies

The definition in this section is the same as the current definition and has no impact.

1.44 Outline of Subdivision

In such a small subdivision that already contains a description of its application, this section is not necessary.

1.45 Labelling requirements

This section is a series of cross references reflecting in part, subclause 2(2) in Standard 1.2.1. There are no impacts from these provisions [check].

1.46 When information can be requested

This provision is much broader than current requirements in the same way as section 1.42 is. The comments to that section apply here as well.

Subdivision E—General prohibitions relating to labels

1.47 Prohibition on altering labels

This section is drawn from clause 11 of Standard 1.1.1. However, in subsections 1.47(1) (2) reference is made to a person who also ‘deals with a packaged food before its sale’. This is new and presents 1.47) problems for the supply chain where packaged food may move through several changes when the labels no longer apply or necessitate change to accurately reflect the product. It would be clearer to refer to ‘deals with consumer ready packaged food’.

The definition in subsection 1.47(3) should be at the start of the section with a sign-post in section 1.06.

1.48 Application of labelling provisions to advertising

This section is drawn from clause 13 of Standard 1.1.1 and has no impact.

Subdivision F—Legibility requirements

1.49 Meaning of *size of type*

There is no change to this definition. It is not clear why this term warrants a ‘meaning’ when a definition would suffice at the start of the next section. It does not warrant a section.

1.50 General legibility requirements

This section is drawn from clause 2 of Standard 1.2.9. However, paragraph (1)(c) is new and has been drawn from the editorial note to clause 2. This is a significant change that has substantial costs associated with it and goes well beyond the scope of a revision of the Code.

1.51 Legibility requirements for warning statements

This section is drawn from clause 2 of Standard 1.2.9 and has no impact.

Division 2—Information requirements—food identification

1.52 Name of food

Subsection (1) is drawn from paragraph 1(1)(a) and (b) of Standard 1.2.2. Subparagraph 1.52(1)(b)(ii) is new but makes clear the connection between the requirement for the name of a food in this section and additional requirements elsewhere in the Code.

Subsection 1.52(2) is recast from subclause 1(3) of Standard 1.2.2 but has no impact.

1.53 Lot identification

This section is drawn from clause 2 of Standard 1.2.2 and has no impact.

1.54 Name and address of supplier

This section is drawn from subclause 3(1) of Standard 1.2.2 and has no impact.

Division 3—Information requirements—warning statements, advisory statements and declarations

1.55 Mandatory advisory statements

Subsection (1) is drawn from clause 2 of Standard 1.2.3 and has no impact. The table to clause 2 has been moved to Schedule 9 in the revised Code and is commented on later in this submission.

Subsection (2) is drawn from clause 5 and the tables to clause 5 in Standard 1.2.3 and has no impact.

1.56 Mandatory warning statement—royal jelly

This section is drawn from clause 3 and the table to clause 3 in Standard 1.2.3 and has no impact.

1.57 Mandatory declaration of certain substances in foods

This section is drawn from clause 4 and the table to clause 4 in Standard 1.2.3 and has no impact.

Division 4—Information requirements—statement of ingredients

1.58 Requirement for statement of ingredients

Subsection (1) is new, adds clarity and is supported. The balance of the section is drawn from clause 2 of Standard 1.2.4 and has no impact.

1.59 Requirement to list all ingredients

This section is drawn from clause 3 of Standard 1.2.4. The key new element is subsection 1.59(e) that reads (in relation to exceptions to a statement of ingredients): “a food that is used as a processing aid”. This adds clarity to what is not required to be listed in the statement of ingredients and is supported.

1.60 Ingredients to be listed by common, descriptive or generic name

This section is drawn from clause 4 of Standard 1.2.4. One provision relating to offal is from Standard 2.2.1 paragraph 4(1)(a) which requires offal to be declared in the ingredients. The table to clause 4 is now found in Schedule 10 which is commented on later in this submission. A key impact from the revision is the replacement of the term used to describe how the ingredients in a compound ingredient are to be described.

The term currently used is that the information be expressed ‘in brackets’ following the name of the compound ingredient (paragraph 6(1)(a) in Standard 1.2.4). The new term is the ingredients of a compound ingredient be expressed ‘in parentheses’. The same change has been made to the declaration of food additives (subclause 8(2) in Standard 1.2.4).

Parentheses are defined as “(parentheses) a pair of round brackets () used to mark off a parenthetical word or phrase” (according to the Oxford English online dictionary English Oxford online <http://oxforddictionaries.com/definition/english/parenthesis#parenthesis> 9).

Where round brackets have not been used, the labels would need to be amended. There are two ways of addressing this issue: revert to the term ‘brackets’ thereby allowing status quo to continue with the form of the brackets undefined or qualify ‘parentheses’ with (brackets of any form).

1.61 Ingredients to be listed in descending order of ingoing weight

This section is drawn from clauses 5 and 6 of Standard 1.2.4. Subsection 1.61(4) is a formula for calculating a particular component. Subsections 1.61(5) to (8) reflect clause 6 of Standard 1.2.4 and the table to clause 6 referring to the percentage of any compound ingredient. The revision is clearer and has no impact.

1.62 Declaration of alternative ingredients

This section is drawn from clause 7 of Standard 1.2.4. The revision has no impact.

1.63 Declaration of substances used as food additives

This section is drawn from clause 8 of Standard 1.2.4. The provisions are rearranged in a different order but this has no impact. Clause 10 of Standard 1.2.4 has been omitted relating to the manner in which a specified oil might be listed on the basis that this is duplicative of provisions relating to oils. The revision has no impact.

1.64 Declaration of vitamins and minerals

This section is drawn from clause 9 of Standard 1.2.4. The section now refers to vitamins and minerals “used as [a] nutritive substance in a food product”. Since the definition of ‘used as a nutritive substance’ covers a range of uses, the revision has no impact.

Division 5—Date marking of food products

1.65 Definitions

This section is drawn from clause 1 of Standard 1.2.5. The definitions have been recast except for ‘baked-on date’. The ‘baked-for date’ is clearer and this and the accompanying definitions are all sign-posted in section 1.06 and have no impact.

1.66 Food product must be date marked on labels

This section is drawn from clause 2 of Standard 1.2.5. While recast in a different order, there is no other impact of the revision. Subclause 2(1) is now found in subsection 1.69(b).

1.67 Prohibition on sale of food after its use-by date

This section reflects clause 3 of Standard 1.2.5, is clearer and has no impact.

1.68 Required wording and form for dates for labels

This section is drawn from clauses 4, 5 and 7 of Standard 1.2.5. The revision is clearer and has no impact.

Division 6—Directions for use and storage

1.69 Directions for use, and statement of storage conditions

This section is drawn from Standard 1.2.6 and subclause 2(1) of Standard 1.2.5 (now found in subsection 1.69(b)). The definition in clause 1 of Standard 1.2.6 has been omitted as this is now addressed by the application of the Acts Interpretation Act. The table to clause 3 of Standard 1.2.6 now appears in text in subsection 1.69(c). The information that must accompany unpackaged food is covered in paragraph 1.34(4)(a). There is no impact from the revision.

Division 7—Nutrition, health and related claims

Subdivision A—Outline of Division

1.70 Outline

This is new and is helpful to the user. However there are a range of styles for outlines in the Revision of the Code (sections 1.26, 1.30, 1.36, 1.44, 1.121 and 2.81) and the most helpful are the ones that describe the purpose or scope of relevant Subdivisions/sections within a Division/Subdivision. The outline for Division 7 might therefore more helpfully read along the following lines:

“This Division:

(a) sets out definitions that apply to the Division and to Division 8 on nutrition labelling (see Subdivision B)

(b) describes the claims framework, the principles applying to the application of the provisions (see Subdivision C)

(ca) sets out:

(i) when the claims that may be made on labels or in advertisements about the nutritional content of food (described as ‘nutrition content claims’ – see Subdivision D); and

(ii) when the claims that may be made on labels or in advertisements about the relationship between a food or a property of a food, and a health effect (described as ‘health claims’ – see Subdivision E); and

(b) describes the conditions under which such claims may be made; and

(be) describes the circumstances in which endorsements may be provided on labels or in advertisements (see Subdivision F).”

Subdivision B—Definitions that apply to this Division and Division 8

1.71 General definitions that apply to this Division and Division 8

This section contains 26 definitions. Twelve of these are signposted in section 1.06 and of these, the definition to three is not in section 1.71.

The issues with the placement of the definitions are as follow:

- 1) All the definitions in this section and indeed in the Division (since there are more scattered through the Division) need to be sign-posted in section 1.06. Other ‘Division specific’ definitions are already sign-posted so there appears no reason why others should not also be sign-posted.
- 2) Some definitions should be included in full in section 1.06. ‘fat’ is a good example, comprising 4 words for which the user of the Code has a two step process to find. The term ‘fat’ has around 30 occurrences in the body of the revised Code (excluding composite terms such as milkfat etc) and in each case the intent is ‘total fat’. Other definitions that could usefully be located in section 1.06 are:
 - general level health claim,
 - high level health claim,
 - nutrition content claim
 - fruit
 - vegetable.
- 3) For some terms signposted in section 1.06 to section 1.71, the term is NOT defined in section 1.71 but rather in either S11.01 or S11.02. As a result, the user is sent from s1.06 to 1.71 and thence to S.11.01 or S11.02 as the case may be. This frustrates useability. The solution is for signposts, wherever they are placed in the Code, to go direct to the definition.

In relation to the terms as defined:

‘average energy content’ no longer contains a reference to the best source of determination of the substance in a food. This affects enforceability as the source of determination may otherwise be disputed.

‘special purpose food’ is defined as meaning any of a range foods. The term is sign-posted in section 1.06 to the definition in section 2.153. A clearer way of handling this term is to provide sign-posts to both uses as has been done in section 1.06 for the term ‘sugars’. In addition, this term is defined by reference to six other terms from ‘(a) infant formula product’ to ‘(f) food for special medical purposes’. All the terms except the last for ‘food for special medical purposes’ are further defined. FGC suggests that for consistency and to avoid any misinterpretation, the term ‘food for special medical purposes’ should be defined.

‘sugar’ has a different meaning here to that in section 1.06. It would be helpful to agree on a single definition for ‘sugar’.

1.72 Meaning of *nutrition content claim*

This section largely replicates the current meaning of ‘nutrition content claim’. It also adds clarifications around the inclusion of mandatory and voluntary information in the nutrition information panel and when, in each instance, a claim might or might not be made. An example is where information on sugar replacers is included. It appears this might now be considered a claim. Further clarification is required around the inclusion of voluntary information that is to assist the consumer and not intended to be a claim. The label is being used in this case to inform the consumer and responding to consumer requests.

Subdivision C—Claims framework and general principles

This subdivision comprises seven sections. Sections 1.74 to 1.78 reflect clauses 4-8 of Standard 1.2.7 respectively and the revisions have no impact other than that to sections 1.75 and 1.79 which are described separately. The sections are:

1.73 Nutrition content claims or health claims not to be made about certain foods

This section contains a new clarification around the making of an energy or carbohydrate content claim which is helpful.

1.74 Division does not apply to certain foods

1.75 Division does not apply to certain claims or declarations

1.76 Form of food to which provisions of this Division apply

1.77 Claims not to be therapeutic in nature

1.78 Claims not to compare vitamin or mineral content

1.79 Division does not prescribe words

This section reflects in part clause 9 of Standard 1.2.7. It omits subclause 9(2) which states that “Any statement or information required by this Standard may be modified if the modification does not alter or contradict the effect of the required statement or information.” This provision needs to be reinserted because clauses such as clauses 12 and 13 set out statements that must be used and that may be currently applied in a slightly variable way. Removing flexibility to provide this information is changing the Code.

Subdivision D—Requirements for nutrition content claims

1.80 Presentation of nutrition content claims

This section reflects clause 10 of Standard 1.2.7, and the revision has no impact.

1.81 Nutrition content claims about properties of food in section S4.01 of Schedule 4

This section reflects clause 11 of Standard 1.2.7, and the revision generally has no impact. However, reference is made through the section to the ‘nutrition content claims table’ which is not defined until the end of the section. This term should be defined at the start of the section as almost all other definitions are or added to the terms defined in section 1.71.

1.82 Nutrition content claims about properties of food not in section S4.01 of Schedule 4

This section and the sections listed below reflect clauses 12, 13, 14 and 15 of Standard 1.2.7 respectively, and the revisions have no impact.

1.83 Nutrition content claims about choline, fluoride or folic acid

1.84 Nutrition content claims must not imply slimming effects

1.85 Comparative claims

Subdivision E—Requirements for health claims

1.86 Application or proposal to vary S4.03 of Schedule 4 taken to be a high level health claims variation

This section reflects clause 16 and the associated editorial note in Standard 1.2.7, and the revision has no impact.

1.87 Conditions for making health claims

This section reflects clause 17 of Standard 1.2.7, and the revision generally has no impact. However, reference is made throughout the section to the ‘general level health claims table’ and the ‘high level health claims table’. These terms are not defined until the end of the section. For usability and consistency with the placement of many other definitions, these terms should be defined at the start of the section or added to the terms defined in section 1.71.

1.88 Requirement when making a general level health claim under paragraph 1.87(3)(b)

This section and following two sections reflect clauses 18, 19 and 20 of Standard 1.2.7 respectively, and the revisions have no impact.

1.89 How health claims are to be made

1.90 Split health claims

1.91 Statements for claims about phytosterols, phytosterols and their esters

This section reflects clause 21 of Standard 1.2.7, and the revision generally has no impact. However, as with section 1.81 and 1.87, terms used in the section are not defined until the end of the section. They should be defined up front, either in the section or in section 1.71.

Subdivision F—Endorsements

1.92 Endorsing bodies

This section reflects clause 22 of Standard 1.2.7, and the revision has no impact.

1.93 Criteria for endorsements

This section reflects clause 23 of Standard 1.2.7, and the revision has no impact.

Subdivision G—Additional labelling of food required to meet the NPSC

1.94 Method for calculating a nutrient profiling score

This section reflects clause 24 of Standard 1.2.7, and the revision has no impact.

1.95 Labelling of food required to meet the NPSC

This section reflects clause 25 of Standard 1.2.7, and the revision has no impact.

1.96 Labelling exemptions for certain foods

This section reflects clause 26 of Standard 1.2.7. The key impact is that the labelling exceptions for the NPSC do not apply to small packages but there is no reference to 'individual portion packs' which may concurrently meet the definition of 'small package'. For the avoidance of doubt, reference in this section should also be made to the application of exemptions to 'individual portion packs' where these are also 'small packages'. The schedules to Standard 1.2.7 including the tables they contain, are now found in the Schedules and are commented on later in this submission.

Division 8—Nutrition information requirements

Subdivision A—Purpose and interpretation

1.97 Purpose

The purpose is taken largely from the purpose of statement at the start of Standard 1.2.8 and the revision has no impact.

1.98 Application of Division

This section reflects clause 1A of Standard 1.2.8, and the revision has no impact.

1.99 Interpretation of Division

This section is new and reverses the current approach where definitions in Standard 1.2.8 apply also to Standard 1.2.7. There is no substantive impact of this reversal and it reflects an improvement such that the terms are defined when first used in the Code.

Subdivision B—Nutrition information panels

1.100 When nutrition information panel is not required

This section generally reflects clause 3 of Standard 1.2.8 and sets out the exceptions to the requirement to carry a nutrition information panel. In removing some of the terminology, the terms 'ice' and 'water' have been combined to read 'ice water'. This is a change and needs to revert to 'ice' and 'water'. Paragraph 100(a)(vii) is limited to 'a substance that is approved for

use as a processing aid' and does not include reference to 'food' that is used as a processing aid which is part of the meaning of 'used as a processing aid' in subsection 1.131(2).

1.101 What must be on nutrition information panel

This section is based on part of clause 1B and clause 5 of Standard 1.2.8, and while many provisions are rewritten and reordered, the impact is minimal. The key problem is that the examples of the format of nutrition information panels have all been moved to Schedule 12. This is very unhelpful and for usability, the examples of formats in the Schedule (S12.01 to S12.06) should be reinserted into the body of the Code.

1.102 How to express particular matters in nutrition information panel

This section is based mostly on clause 1B of Standard 1.2.8, and the revision has no impact.

1.103 Percentage daily intake information

This section reflects clause 7 of Standard 1.2.8. Clause 7 currently refers in two places to values being 'per serve', first in relation to dietary fibre (paragraph 7(2)(a)) and secondly in relation to the percentage daily intake of energy, fat, saturated fatty acids etc (subparagraph 7(2)(b)(i)). There is no reference in section 1.103 to 'per serve' and this is a vital element to the provision of percentage daily intake information. It is very helpful to have left the reference values for percent daily intake information in this section.

1.104 Percentage recommended dietary intake information

This section reflects clause 7A of Standard 1.2.8, and the revision has no impact.

1.105 Information referred to in sections 1.103 and 1.104 may be presented outside nutrition information panel

This section reflects clause 7B of Standard 1.2.8, and the revision has no impact. There is typographical error in paragraph 1.105(1)(a) with the repetition of 'the'.

1.106 Requirement for dehydrated or concentrated food

This section and the sections listed below reflect clauses 9, 10 and 11 of Standard 1.2.8, and the revisions have no impact.

1.107 Food intended to be drained before consumption

1.108 Food intended to be prepared or consumed with other food

1.109 Requirement for food products in small packages

This section reflects clauses 8 and 8A of Standard 1.2.8, and the revision has no impact. The table to clause 8 has been moved to Schedule 13 and is commented on later in this submission.

Division 9—Characterising ingredients and components of food

1.110 Definitions

This section is based on clause 1 of Standard 1.2.10. It contains two definitions both of which are sign-posted in section 1.06: characterising component and characterising ingredient. The key change in both the definitions is to change the term 'is usually associated with' to 'is likely to be associated with'. The terms are not synonymous and the impact could be substantial. This is because 'usually' looks at the past to inform the current and future use whereas 'likely to be' looks to the future to inform current use. The term 'usually' should replace 'likely to be'.

The editorial note to clause 1 is very helpful and should be retained in a guidance document to explain the application of this standard.

1.111 Requirement to declare characterising ingredients and components

This section is based on clause 2 of Standard 1.2.10. Currently subclauses 2(3) and 2(4) provide a comprehensive list of foods that do not require characterising ingredients or components to be listed. This list has been reduced and a number of exceptions now sit in various places in the revised Code. The exceptions relate to ‘food packaged in the presence of the purchaser’, ‘foods for catering purposes’ and ‘food delivered packaged and ready for immediate consumption at the express order of the purchaser’. FGC understands the driver for these deletions is to remove duplication. However, in this instance, this has been done at the cost of completeness and usability. FGC considers a list that purports to reflect exceptions to the listing of characterising information should be complete or should include a note that provides references to other exceptions.

1.112 Calculating proportion of characterising ingredients

This section is based on clause 3 of Standard 1.2.10. It converts text to a formula which is clearer for the user.

1.113 Calculating proportion of characterising ingredients where moisture loss occurs

This section is based on clause 4 of Standard 1.2.10 and the revision has no impact.

1.114 Calculating proportion of characterising ingredient where proportion is declared in nutrition information panel

This section reflects clause 4A of Standard 1.2.10 and the revision has no impact.

1.115 Method of calculating proportion of characterising components

This section is based on clause 6 of Standard 1.2.10. As with section 1.112 above, it converts text to a formula which is clearer for the user. However, the terms in the formula are defined in alpha order rather than the order in which they are used in the formula. The convention with formulae is to define terms in the order of use in the formulae, not in alpha order. On this basis, the symbol ‘*W*’ should be defined before ‘*TW*’.

1.116 Declaration of characterising ingredients and components

This section is based partly on clause 5 but mostly on clause 7 of Standard 1.2.10 and the revision has no impact.

Division 10—Country of origin labelling requirements

Note: This Division applies in Australia only.

Part 4—Substances added to or present in food

Division 1—Outline of Part

1.121 Outline

This is new and is helpful to the user as far as it goes. Its use would be greatly enhanced by the addition of the titles of the Divisions in (a) and (b) such that the outline would read:

- “(a) the addition to a food of substances that are not normally consumed (see Division 2—Food Additives, Division 3—Vitamins and Minerals and Division 4—Processing aids); and
- (b) the presence in a food of substances that are not normally consumed (see Division 5—Contaminants and natural toxicants, Division 6—Agvet chemicals, Division 7—Prohibited and restricted plants and fungi and Division 10—Microbiological limits for food); and”.

Division 2—Food additives

1.122 Interpretation

Food additive is currently described in the purpose statement of Standard 1.3.1. Elements of that description appear in the meaning of ‘used as a food additive’ such as performing a

technological function/purpose listed, an additive or colouring added according to GMP, a substance not normally consumed as a food and a substance not normally used as an ingredient of food.

The element lost is 'intentionally added to food' and the new element is it 'has been extracted, refined or synthesised'. It is not clear what the rationale for the omission and addition is.

To the extent that ever more natural colourings and flavourings are being sought to satisfy consumer demand, it seems contrary to provide for a substance to be used as an additive only if it has been 'extracted, refined or synthesised'. For example, the use of fruit or vegetable juice as a colouring agent would not be available as food additives under this proposed meaning of 'used as a food additive'. The revision appears to change the application of the term 'food additive' substantially and to this extent goes beyond the scope of P1025.

In subsection 1.122(3), the definitions of substances permitted at GMP or to a maximum level generally reflect current arrangements and the revision of these provisions has no impact.

Following subsection 1.122(3) is a heading that currently reads "*Colours and their calcium lakes*". This should more correctly read "*Colours and their aluminium and calcium lakes*".

1.123 When food additives may be used as ingredients in foods

While recast, this provision reflects the current provisions in clauses 3 and 7 of Standard 1.3.1 and the revision has no impact.

1.124 Maximum permitted levels of food additives in foods

This section is drawn in part from clause 5 of Standard 1.3.1 and while it appears more convoluted, it is largely presenting the same provisions. The reference in subsection 1.124(5) to the addition of substances in ingredients in higher levels than would otherwise be allowed so long as the level in the final food complies with the maximum clarifies the situation in relation to additives in ingredients and makes it clear that the maximum applies to the final food, an element omitted in other areas.

Paragraphs 1.124(6)(e) and (f) refer to nitrates and ferrocyanides respectively. It is not clear where these references are drawn from and the next version of the concordance could assist in identifying source..

The formula for calculation of steviol equivalent levels for a steviol glycoside reflects the text in the current provision and the examples provided in subclause 5(3) of Standard 1.3.1. The terminology refers to 'a steviol glycoside' and thereby assumes that only a single steviol glycoside is used whereas the current provision in subclause 5(3) of Standard 1.3.1 allows for more than one steviol glycoside to be used. As well, the terms used in the equation should be defined in the order that they appear in the equation, not in alpha order.

1.125 Limitation on use of intense sweeteners

This section is generally reflects clause 4 of Standard 1.3.1 and the revision has no impact.

1.126 Food additives performing the same purpose

This section generally reflects clause 6 of Standard 1.3.1. It converts text to a formula which is clearer for the user. However, as noted with the formula in section 1.115 above, the terms in the formula are defined in alpha order rather than the order in which they are used in the formula. The convention with formulae is to define terms in the order of use in the formulae, not in alpha order. On this basis, the symbol '*N*' should be defined before '*Conc_i*'.

Division 3—Vitamins and minerals

1.127 Meaning of *reference quantity*

This section reflects clause in Standard 1.3.2 and the revision has no impact.

1.128 Listed vitamins and minerals may be used as nutritive substance in foods

This section is based on clause 3 of Standard 1.3.2 with amendments mainly relating to references to information now contained in Schedules S17.01 to S17.03. There is generally no impact resulting from the revision. However, FGC notes that while subsection 1.128(c) refers to ‘amounts’ of vitamins and minerals in ‘reference quantities’ of food, the table in S17.03 of Schedule 17 refers, in column 3 to “Maximum permitted **quantity** per reference quantity”. This creates a mismatch between the Code and the application of the Schedules that requires correction by changing the heading to column 3 of the table in S17.03 to “Maximum permitted amount per reference quantity”.

1.129 Claims in relation to vitamin and mineral content of foods

This section is based on clause 4 of Standard 1.3.2. The revision refers to a vitamin or mineral used as a nutritive substance, spells out in more detail how claims are to be applied and the revision has no impact.

1.130 Calculation of maximum quantity of a vitamin or mineral which may be claimed in a reference quantity of food

This section is based on clause 5 of Standard 1.3.2. The key difference is the deletion of any reference to the ‘final’ food. This is problematic because it now does not make clear at what point in the processing cycle the calculation of maximum quantity of a vitamin or mineral takes place. Reference to ‘final food’ must be retained.

The example calculations should be retained in a guidance document to this Division.

Division 4—Processing aids

Subdivision A—Interpretation

1.131 Meaning of *used as a processing aid*

This section is based on clause 1 of Standard 1.3.3. Again reference to the ‘final’ food is deleted which is of greater concern in relation to processing aids than to vitamins and minerals since many processing aids do not remain in the final food and there are therefore significant labelling consequences as a result.

The part of the meaning relating to ‘substances that are used as a processing aid’ has no impact other than the deletion of reference to the ‘final food’.

The part of the meaning relating to ‘foods that are used as a processing aid’ is new and its purpose is [uncertain] since Note 1 to this section states that the Code “does not regulate the use of foods as processing aids”. It also contains a reference to “so much of the food as is necessary to perform the technological purpose” which also, in light of Note 1 is confusing. While this may address in part the need for greater clarity on the addition of processing aids and to ensure complete coverage, it potentially goes beyond the scope of the revision. Examples of foods used as a processing aids is corn starch in icing sugar and the oil coating dried fruit which have no technological functions in the final foods and do not currently appear in ingredients lists. Under this proposed definition both the corn starch and the oil coating would appear to need to be listed. This contradicts section 1. However, this would conflict with section 1.59 which exempts the need for the statement of ingredients to list substances used as processing aids. If the definition remains unchanged, it would have a substantial and costly impact and goes beyond the scope of P1025.

Subsection 3 provides for an additive permitted at GMP to also be a processing aid. The current application is that a substance or a food that performs the function of a food additive is a food additive and a substance that performs the function of a processing aid is a processing aid. However, since this provision may increase flexibility then it is possible there is no impact. Another take on this is that subsection 3 relates specifically to both **foods** and **substances** used as processing aids, stating that they are **substances** permitted as a **processing aid** in Schedule 18 and **additives** permitted at GMP. Therefore foods = substances and processing aids = additives. This is still confusing. NZFGC will continue to consider the impact of this and any revision of the term.

1.132 Permission to use substance as processing aid

This section is new and sets out the circumstances when a substance may be used as a processing aid and the conditions under which such a substance may be used (only if the proportion of it is no more than the maximum level necessary to achieve the technological purpose at GMP). While the latter is an expansion of references to the level that may be used where not otherwise specified, it is nonetheless the approach that is already practiced and is therefore supported. As with section 1.131, there may be an issue with limiting this section to 'substances used as processing aids' and not including food used as a processing aid.

Subdivision B—Processing aids that may be used with any food

1.133 Generally permitted processing aids for all foods

This section is based on clause 3 of Standard 1.3.3 and the revision has no impact. The table to clause 3 appears in section S18.01 of Schedule 18 which is commented on later in this submission.

1.134 Processing aids for certain purposes for all foods

This section covers the provisions for the categories of processing aids covered by clauses 4 to 10 in Standard 1.3.3. The key deletion is reference to the processing aid not being in the final food at a level greater than the maximum permitted. By not specifying the point in processing at which the maximum level is to be measured, clarity is lost and the clause is opened up for broad and differing interpretation. The tables to clauses 4 to 10 appear in section S18.02 of Schedule 18 which is commented on later in this submission.

1.135 Enzymes

This section covers the provisions for the categories of enzymes covered by clauses 15 to 16 in Standard 1.3.3. The tables to these clauses appear in section S18.03 of Schedule 18 which is commented on later in this submission. Note 2 to this section states that if the enzymes are genetically modified, the food they are used on will have a GM food and therefore require GM labelling. This is not the current requirement. If the enzyme is not in the final food or not performing a technological function in the final food (which depends on the manufacturing process) the enzyme is not required to be listed. This current arrangement is reflected in subsection 1.59(c) which states, in relation to the ingredients that do not require to be listed in a statement of ingredients:

“a substance used as a processing aid in accordance with Division 4 of Part 4”

Section 1.135 ignores the distinction between processing aids and food additives where none of a processing aid is in the final food. This is a major change in application and beyond the scope of the revision of P1025.

1.136 Microbial nutrients and microbial nutrient adjuncts

This section reflects clause 18 in Standard 1.3.3 and the revision has no impact. The table to this clause appears in section S18.04 of Schedule 18 which is commented on later in this submission.

Subdivision C—Processing aids that can be used with specified foods

1.137 Processing aids for water

This section is based on clause 11 in Standard 1.3.3. The current provision in clause 11 provides that where water is used as an ingredient, the processing aid in the water must be no more than the maximum permitted level in the table to the clause. The revision changes substantially this provision by permitting the maximum to be reflected in the food in which the water containing the processing aid is used, that is not the water. The amount of the processing aid might therefore be much greater when taken as a proportion of the food rather than as a proportion of the water as an ingredient. The table to this clause appears in section S18.05 of Schedule 18 which is commented on later in this submission.

1.138 Bleaching, washing and peeling agents—various foods

This section is based on clause 12 in Standard 1.3.3. The key deletion is reference to the processing aid not being in the final food a level greater than the maximum permitted. By not specifying the point in processing at which the maximum level is to be measured, clarity is lost and the clause is opened up for broad and differing interpretation. The table to clause 12 appears in section S18.06 of Schedule 18 which is commented on later in this submission.

1.139 Extraction solvents—various foods

This section is based on clause 13 in Standard 1.3.3. The key deletion, as in the previous section, is reference to the processing aid not being in the final food a level greater than the maximum permitted. By not specifying the point in processing at which the maximum level is to be measured, clarity is lost and the clause is opened up for broad and differing interpretation. The table to clause 13 appears in section S18.07 of Schedule 18 which is commented on later in this submission.

1.140 Processing aids that perform miscellaneous functions

This section is based on clause 14 in Standard 1.3.3. Having removed the term ‘function’ from all preceding sections, this section retains reference to ‘function’ which is inconsistent and has the potential to create uncertainty especially since the body of the section refers to ‘purpose’ not ‘function’. The more detailed explanation of the application of the table to this section is helpful. However, the key deletion, as in preceding sections, is reference to the processing aid not being in the final food a level greater than the maximum permitted. By not specifying the point in processing at which the maximum level is to be measured, clarity is lost and the clause is opened up for broad and differing interpretation.

None of the notes to the table are retained. It will be important to preserve these in some other document rather than lose them entirely. The table to clause 14 appears in section S18.08 of Schedule 18 which is commented on later in this submission.

1.141 Microbial control agent—dimethyl dicarbonate

This section is based on clause 19 in Standard 1.3.3. Subsection (2) reflects subclause 19(2) but the last two words ‘as sold’ are deleted. The subsection now makes no sense because when dimethyl dicarbonate is used as a processing aid, it is present in the food, a situation prohibited by subsection (2). The words ‘as sold’ are very purposeful in reflecting the characteristic of dimethyl dicarbonate to break down entirely over a very short period or time. The table to clause 19 appears in section S18.08 of Schedule 18 which is commented on later in this submission.

Division 5—Contaminants and natural toxicants

1.142 Maximum levels of contaminants and natural toxicants in food

This section reflects mainly clause (6) in Standard 1.4.2. Other clauses and the table to the Standard are reflected in Schedule 19 which is commented on later in this submission.

Subsection (1) reflects the formula applied to calculate the maximum level of a contaminant or toxicant in a food. ML, which is defined in Standard 1.4.2, is not specifically defined in this section and should be. The remaining terms in the formula are defined in alpha order not in the order in which they appear in the formula. Alpha order definition of terms is not the convention used with formula and the definitions should revert to the order of appearance. The editorial note is deleted and provides helpful information about the application of this Standard and should not be lost. There is no impact of the revision.

Division 6—Agvet chemicals

This Standard is an 'Australia only' standard.

Division 7—Prohibited and restricted plants and fungi

The note to this Division incorrectly refers to the 'coca bush' as the 'cocoa bush'. This needs correction.

1.147 Interpretation

This section reflects clauses 1 and 2 of Standard 1.4.4 and the revision has no impact.

1.148 Exception to prohibition relating to prohibited plants and fungi

This section reflects the editorial note to subclause 1(1) in Standard 1.4.4 such that the unintentional addition of prohibited plants or fungi. The key omission is reference to such an unintentional addition occurring "within the bounds of recognised acceptable Good Agricultural Practice or GMP". This is an important condition on an unintentional addition and should be retained.

1.149 Exception to prohibition relating to restricted plants and fungi

This section is based on clause 2 in Standard 1.4.4 and the revision has no impact.

1.150 Exception relating to coca bush

This section is based on subclause 1(2) in Standard 1.4.4 and the revision has no impact.

Division 8—Novel foods

1.151 Definitions

This section reflects clauses 1 in Standard 1.5.1 and defines 'non-traditional food' and 'novel food' without change.

1.152 Sale of novel foods

This section reflects clause 2 in Standard 1.5.1 and while the revision is extensive the result is clearer and the revision has no impact. The table to clause 2 appears in section S25.01 of Schedule 25 which is commented on later in this submission.

1.153 Exclusive use of novel foods

This section reflects subclause 3(1) in Standard 1.5.1. A reference to an exclusive period has been deleted and no provision is made for the commencement of the exclusive period (subclause 3(2)), the impact of the end of the exclusive period (subclause 3(3)) or the duration of the exclusive period (subclause 3(4)). The table to clause 3 appears in section S25.02 of Schedule 25 which currently has no entries.

Division 9—Food produced using gene technology

1.154 Definitions

This section reflects clauses 1 and 7 of Standard 1.5.2. The key change is the deletion from the definition of 'altered characteristics' subclause 7(e). This subclause has not been invoked and its deletion has no impact. Several definitions have been deleted: 'conventional breeding', 'line' and 'transformational event'. The terms are not used in the Standard (other

than in the 'conventional breeding' definition in the case of 'transformational event') and their deletion is therefore appropriate.

1.155 When food produced using gene technology is permitted for sale

This section is based on clause 2 of Standard 1.5.2. Although the revision results in a new section, the intent is retained and there is no impact resulting from this revision.

1.156 Requirement to label food as 'genetically modified food'

This section reflects clause 4 of Standard 1.5.2.

Division 10—Microbiological limits for food

1.157 Interpretation

Several definitions are omitted (c, defective sample unit, M, m, microorganism, n, processed) but these appear not to be used in any way in the Division. This creates issues for using the table in the Schedule 27 as noted below.

1.158 Maximum microbiological levels in foods

This section is based in part on clause 3 of Standard 1.6.1 and the definitions omitted from the interpretation. The table in Schedule 27 is more difficult to follow because:

- a) the explanation for it is separate; and
- b) the description is not as clear.

The description needs to be much clearer about how to interpret the table in Schedule 27.

1.159 Assessment of microbiological levels

This section is based on subclauses 3(2) and (3) of Standard 1.6.1.

Clause 5 of Standard 1.6.1 is deleted. The clause currently makes it clear that a 'lot' of a food fails to meet the Standard if the number of sample units that fail is greater than the number specified or the level of the microorganism in a sample unit is greater than the permitted level. This made the failure criteria very clear. A 'to avoid doubt' subsection along these lines would be a very important addition that should be retained. Schedule 27 is commented on later in this submission.

Part 5—Processing requirements

Division 1—Irradiation of food

Subdivision A—Preliminary

1.160 Definitions

This section is based on clause 2 of Standard 1.5.2 and the revision has no impact.

Subdivision B—Irradiation of food

This subdivision is based on the Table to clause 4 in Standard 1.5.2. Each of sections 1.161 to 1.163 listed below reflects a row in the Table and in the case of section 1.162 refers to the Schedule 22 which is commented on later in this submission. There is no impact of the conversion to text.

1.161 Irradiation of fruit and vegetables

1.162 Irradiation of herbs and spices

1.163 Irradiation of herbal infusions

1.164 Re-irradiation of food

This section reflects clause 5 of Standard 1.5.2 and the revision has no impact.

1.165 What sources of radiation may be used?

This section is based on clause 3 of Standard 1.5.2. The title of the section does not need to be a question. The text of the revised section has no impact.

Subdivision C—Record-keeping for and labelling of irradiated food

1.166 Record-keeping

This section reflects clause 7 of Standard 1.5.2 and the revision has no impact.

1.167 Labelling and other information—retail and catering

This section reflects clause 6 of Standard 1.5.2 and the revision has no impact.

Division 2—Processing requirements for meat

Australia only

Division 3—Articles and materials in contact with food

1.171 Restriction on things in contact with food products

This section is based on clause 2 of Standard 1.4.3. It is a simpler and clearer description of the restriction and the revision has no impact.

Chapter 2—Food standards

Part 1—Cereals

Division 1—Bread and bread products

This Division comprises five sections listed below reflecting Standard 2.1.1. As with a number of other definitions in Chapter 2, the FGC considers these should be either be located or sign-posted from section 1.06 and, where they remain in sections, they should be located at the start of sections BEFORE they are used rather than at the end of sections. The revised sections otherwise have no impact. The sections are:

2.01 Compositional requirements for bread

2.02 Compositional requirements for wholemeal and wholegrain products

2.03 Application of sections 2.04 and 2.05

2.04 Requirement for folic acid and thiamin in bread

2.05 Requirement for iodised salt in bread

Part 2—Meat, eggs and fish

Division 1—Meat and meat products

This Division comprises nine sections listed below reflecting Standard 2.2.1. As with a number of other definitions in Chapter 2, the FGC considers these should be either be located or sign-posted from section 1.06 and, where they remain in sections, they should be located at the start of sections BEFORE they are used rather than at the end of sections. The revised sections otherwise have no impact. A consistency issue is noted under section 2.15. The sections are:

Subdivision A—Interpretation

2.06 Definitions

Subdivision B—Compositional requirements

2.07 Compositional requirement for sausage

2.08 Compositional requirement for meat pies

Subdivision C—Information requirements

2.09 Statement indicating the presence of offal

2.10 Proportion of fat in minced meat

2.11 Information about raw meat joined or formed into the semblance of a cut of meat

2.12 Labelling of fermented comminuted processed meat

2.13 Labelling of fermented comminuted manufactured meat

Subdivision D—Sourcing requirements

2.15 Bovine must be free from bovine spongiform encephalopathy

This section applies only to Australia. However, this is not made clear until the Note at the end of the section. Section 2.04 also applies in Australia only but the note appears immediately after the title as “Note: This section applies in Australia only.” It would be more helpful if the same note appeared immediately after the title and additional information could be provided there or at the end of the section.

Division 2—Eggs

Australia only

Division 3—Fish and fish products

This Division comprises two sections listed below reflecting Standard 2.2.3. Section 2.19 is titled ‘Meaning of *fish*’ while other sections containing definitions are either titled definitions or interpretation. There seems no reason to title section 2.19 ‘Meaning of *fish*’ and consideration should be given to retitling the section for consistency. The revised sections otherwise have no impact. The sections are:

2.19 Meaning of *fish*

2.20 Labelling of formed or joined fish

Part 3—Fruit and vegetables

Division 1—Fruit and vegetables

This Division comprises two sections listed below reflecting Standard 2.3.1. As with the comments made under Part 2, Division 3 above, section 2.21 is titled ‘Meaning of fruit and vegetables’ while other sections containing definitions are either titled definitions or interpretation. If the section is retained, there seems no reason for this title and consideration should be given to retitling the section as definitions or interpretation for consistency. The FGC considers that definitions that apply throughout the Code should be located in section 1.06. The revised sections otherwise have no impact. The sections are:

2.21 Meaning of fruit and vegetables

2.22 Compositional requirement for fruit and vegetables in brine, etc

Division 2—Jam

This Division comprises a single section listed below reflecting Standard 2.3.2. As with a number of other definitions in Chapter 2, the FGC considers that, where they are located in sections, they should be located at the start of sections BEFORE they are used rather than at the end of sections.

2.23 Compositional requirement for jam

The composition of jam now requires that fruit must be the primary or starting ingredient. This is a change that will have significant consequences for jam that is made from concentrated pulp or juice as the starting ingredient.

Part 4—Edible oils

Division 1—Edible oils

This Division comprises two sections listed below reflecting Standard 2.4.1. As with a number of other definitions in Chapter 2, the FGC considers that, where they are located in sections, they should be located at the start of sections BEFORE they are used rather than at the end of sections.

2.24 Compositional requirement for edible oils

Subsection 2.24(2) contains reference to two ‘representations’. This is a very convoluted and unnecessarily complex way of stating very simply that ‘A food that is described as a particular kind of edible oil is that edible oil’ or words to that effect.

2.25 Process declaration for edible oils

This section reflects clause 3 of Standard 2.4.1 and has no impact.

Division 2—Edible oil spreads

This Division comprises single section that FGC does not support and finds particularly concerning.

2.26 Compositional requirement for edible oil spreads and margarine

This section is based on clauses 1 and 2 of Standard 2.4.2 but contains a number of key differences. The first is in paragraph 2.26(1)(b) which refers to edible oil spread consisting of the addition of certain listed substances. Standard 2.4.2 refers to edible oil spread and margarine ‘containing’ such substances, not that they are added.

Second, Standard 2.4.2 does not separately refer to or single out table margarine and table edible spreads. The revision does so in subsections 2.26(2) to (4). In reality most table margarines and table edible spreads are also used in cooking and are not distinguishable just as there is no separate category for table and cooking butter. While the terms are not singled out, they are not problematic. Separation is therefore not supported.

Third, the application of the sections is not made clear until after the sections which is a continuing irritation with the revision. The application should appear with the section, ideally in the title or as a note after the title such as “Note: This section applies in Australia only.” or in a preceding subsection.

Fourth, the subsection referring to application to New Zealand is incorrect. Standard 2.4.2 refers to imported or produced in New Zealand rather than ‘sales in’. FGC considers the wording on the application should remain as it appears in the current Standard.

Fifth and finally, a subsection for ‘interpretation’ (subsection 2.26(6)) is an unnecessary departure from the convention of interpretations being at the start of Divisions and is also a continuing irritation for definitions applicable to a section to appear at the end of a section rather than at the section’s start or preceding the relevant section.

Part 5—Dairy products

A note at the commencement of this Part 5 provides a direction to where the processing requirements for the collective term ‘dairy products’ might be found. This may have an unintended consequence: ‘dairy products’ is not defined and where the processing was mandated by a reference to the relevant standard (in the case of Australia) that mandate now only appears in Chapter 4.

Division 1—Milk

2.27 Compositional requirement for milk

This section reflects clause 1 of Standard 2.5.1 and has no impact.

2.28 Compositional requirement for cow’s milk

This section reflects clause 2 of Standard 2.5.1 and converts the table to clause 2(1) to text. The term ‘altered’ has different connotations and uses to the current term ‘adjusted’. ‘Adjusted’ is also the internationally accepted term in Codex for the processes being permitted in this and following sections. Adjusted simply means the existing components in the milk are changed to meet different proportions whereas altered does not necessarily refer to existing components. It has been correctly and helpfully retained in sections 2.38, 2.39 and 2.40. The term ‘adjusted’ and other forms of this term should be reinstated in this section

and other sections where it has been substituted by the term 'altered' or other forms of the term 'altered'.

2.29 Composition of skim milk

This section reflects clause 3 of Standard 2.5.1 and, as with section 2.28, converts the table to clause 3(1) to text. The title of the section is inconsistent with the titles of several other sections in this Part 5 and should read "Compositional requirement for skim milk", not "Composition of skim milk".

2.30 Addition of phytosterols, phytosterols and their esters to milk

This section reflects clause 4 of Standard 2.5.1 and has no impact.

Division 2—Cream

2.31 Compositional requirement for cream

This section reflects all the clauses in Standard 2.5.2. The definition should appear at the start of the section, the term 'altered' in subsection 2.31(2) should be replaced by the current term 'adjusted' and the current wording of 'addition of milk and products obtained from milk' in subclause 2(2) in Standard 2.5.2 should not be truncated in subsection 2.31(2) to 'addition of milk products obtained from milk'.

Division 3—Fermented milk products

2.32 Compositional requirement for fermented milk and yoghurt

This section reflects clauses 1 and 2 in Standard 2.5.3. The definitions should appear at the start of the section. Paragraphs 2.32(1)(b) and (c) and subsection 2.32(2) are confusing. The proposed wording for fermented milk/yoghurt combined with other foods (eg fruit yoghurt) is particularly confusing. The section includes both wording about 'fermented milk or yoghurt with the addition of other ingredients' and 'food that contains fermented yoghurt as an ingredient'. It is not clear that there is difference or whether there should be difference. Neither is it clear whether a 'yoghurt with the addition of other ingredients' would have to comply with pH, microorganism, protein requirements for yoghurt in general. This section needs to be very clear that the requirements only apply to the yoghurt portion of a product.

2.33 Addition of phytosterols, phytosterols and their esters to yoghurt

This section reflects clause 4 in Standard 2.5.3 and the revision has no impact.

Division 4—Cheese

2.34 Compositional requirement for cheese

This section reflects clauses 1 and 2 in Standard 2.5.4. The definition should appear at the start of the section, the term 'altered' in subsection 2.31(2) should be replaced by the current term 'adjusted' and the current wording of 'addition of milk and products obtained from milk' in subclause 2(2) in Standard 2.5.2 should not be truncated in subsection 2.31(2) to 'addition of milk products obtained from milk'.

2.35 Addition of tall oil phytosterol esters

This section reflects clause 3 in Standard 2.5.4. Subsection 2.35(b) reflects a subsection that has been deleted from Standard 2.5.4 and should be deleted.

Division 5—Butter

2.36 Compositional requirement for butter

This section reflects all three clauses in Standard 2.5.5 and the revision has no impact.

Division 6—Ice cream

2.37 Compositional requirement for ice cream

This section reflects both clauses 1 and 2 in Standard 2.5.6. The revision has no impact but the current Editorial note should be reinserted as a note to assist in the usability of this standard so as to direct the use to the labelling requirement concerning the declaration of animal fats or oils in ice cream.

Division 7—Dried milk, evaporated milk and condensed milk

The title of this Division and the sections it refers to the singular 'dried milk, evaporated milk and condensed milk'. This is a departure from the international Codex standards for these products and a reversion to the plural is suggested.

A good part of each of sections 2.38 to 2.40 are duplicated because the provisions apply to all three foods. A general section at the start of this Division covering common provisions would be helpful.

As well, as in many other places, definitions scattered through this Division and at the end of sections are most unhelpful. The definitions should appear at the start of the Division as they do in the current Standard 2.5.7.

2.38 Compositional requirements for condensed milk

This section, as with sections 2.39 and 2.40, is based on parts of all three clauses in Standard 2.5.7. Other than the duplication noted above, the revision has no impact. It is noted, however, that the heaviest user of these sections will not necessarily know that 'or' means 'and' or 'or' as a result of the application of the Acts Interpretation Acts in Australia and New Zealand. A note about the interpretation at this and other critical points in the Code could be very helpful.

As well, the reference to 'whey protein to casein ratio' in subsection 2.38(2) should state 'whey protein to casein protein ratio' to make this ratio very clear.

2.39 Compositional requirement for dried milk

Other than the duplication noted above, the revision has no impact. However, as noted above, the reference to 'whey protein to casein ratio' in subsection 2.39(3) should state 'whey protein to casein protein ratio' to make this ratio very clear.

2.40 Compositional requirement for evaporated milk

Other than the duplication noted above, the revision has no impact.

Part 6—Non-alcoholic beverages

Division 1—Fruit juice and vegetable juice

2.41 Meaning of *juice blend*

This section is based on clause 1 of Standard 2.6.1 and the revision has no impact.

2.42 Compositional requirement for fruit juice and vegetable juice

This section is based on clause 2 of Standard 2.6.1. The subsections 2.42(1) and (2) are duplicative and a single provision for both vegetable and fruit juice, as is the case currently in clause 2 is much preferred.

The definitions in subsection 242(3) would be more useful placed at the start of the Division.

2.43 Name and percentage by volume of juices in juice blend

This section is based on clause 3 of Standard 2.6.1 and the revision has no impact.

Division 2—Non-alcoholic beverages and brewed soft drinks

In this Division, it is unclear where the provisions from subclauses 2AA(2) and (3) in Standard 2.6.2 concerning limits of chemicals in packaged water are now located.

2.44 Definitions

This section is based on clause 1 of Standard 2.6.2. The revision generally has no impact. However, it is particularly irritating for the definition of 'fruit drink' to be located within the body of the Division rather than in this section or in section 1.06. FGC suggests the definitions be collocated in this section as they are in Standard 2.6.2.

2.45 Composition of packaged water

This section is based on clause 2 of Standard 2.6.2. Subclause 2(1) which reads:

"Water presented in packaged form may or may not contain added carbon dioxide." has been deleted. This is an important clarification and avoids doubt about the addition of carbon dioxide and should be reinserted.

2.46 Addition of fluoride to packaged water

This section is based on clause 2A of Standard 2.6.2 and the revision has no impact.

2.47 Labelling—composition of packaged water

This section is based on clause 2B of Standard 2.6.2 and the revision has no impact.

2.48 Compositional requirement for brewed soft drink

This section is based on clauses 1 and 3 of Standard 2.6.2 and the revision has no impact. However, as noted above, the definition of '*brewed soft drink*' would be more helpfully located at the start of the Division. As well, the phrase 'A food that is sold on the basis of a representation that it is' would be better replaced by 'A food that is called a' or 'A food named as a'.

2.49 Compositional requirement for fruit drink

This section is based on clause 4 of Standard 2.6.2 and the revision has no impact. However, the phrase 'A food that is sold on the basis of a representation that it is' would be better replaced by 'A food that is called a' or 'A food named as a'.

2.50 Non-alcoholic beverages not to be labelled or presented as alcoholic beverages

This section is based on clause 5 of Standard 2.6.2 and the revision has no impact.

2.51 Compositional requirement for electrolyte drinks and electrolyte drink bases

This section is based on clause 6 of Standard 2.6.2 and the revision has no impact. However, the phrase 'A food that is represented as' would be better replaced by 'A food that is called a' or 'A food named as a'. As well, the definitions in this section would be more helpfully located at the start of the Division.

2.52 Labelling of electrolyte drinks and electrolyte drink bases

This section is based on clause 7 of Standard 2.6.2 and the revision has no impact. However, it may be the case that the term 'average' appearing in subparagraph 2.52(1)(a)(i) is an unnecessary duplication of the term average in paragraph 2.52(1)(a).

2.53 Claims in relation to the tonicity of electrolyte drinks

This section is based on clause 8 of Standard 2.6.2. Subsection 2.53 omits a phrase that now changes the intent of the provision. The current provision in subclause 8(2) reads:

"Where a claim is made that an electrolyte drink is isotonic, hypertonic or hypotonic, the osmolality of the electrolyte drink as measured in milliOsmol/L must be declared on the label of the package."

The impact is that only where a claim is made that an electrolyte drink is a certain specified type is the osmolality required to be declared. Subsection 2.53(2) now makes the declaration of osmolality a requirement for ALL electrolyte drinks. Such a change goes beyond the scope of P1025 and the text subsection 2.53(2) should revert to the current form in subclause 8(2).

2.54 Compositional requirement for formulated beverages

This section reflects clause 9 of Standard 2.6.2 and the revision has no impact.

Division 3—Kava

2.55 Meaning of *kava*

This section is based in part on subclause 2(1) of Standard 2.6.3 but provides a new definition for '*kava root*'. It also omits the definition of 'cold water extraction' which is now embedded in subsection 2.56. The key issue is that now the Division does not refer to 'cold water extraction' yet this is a commonly understood term for the process described. FGC considers the term 'cold water extraction' should be reinserted.

2.56 Exception to prohibition

This section is based on clause 2 of Standard 2.6.3. Subsection 2.56(a) refers to the 'suspension of kava root' where clause 1, in the definition of 'cold water extraction' refers to 'kava'.

2.57 Labelling of foods containing kava

This section reflects clause 3 of Standard 2.6.3 and the revision has no impact.

Division 4—Formulated caffeinated beverages

2.58 Interpretation

This section reflects clause 1 of Standard 2.6.4 and the revision has no impact.

2.59 Meaning of *one-day quantity*

This section is new and is drawn from some provisions in the Standard but also an editorial note. While it is quite helpful, FGC considers this goes beyond the scope of P1025 and should not proceed at this time. It also complicates the provisions since it refers to substances listed now in Schedule 29 for a calculation according to section 2.59 but requiring labelling for a 'one-day quantity' referred to in subsection 2.61(4).

2.60 Composition of formulated caffeinated beverage

This section reflects clause 2 of Standard 2.6.4 and the revision has no impact. However, the Table to subclause 2(2) is now located in Schedule 29. The table contains a list of 9 substances which would be far more helpful to be collocated with the requirements of this Division and this section.

2.61 Labelling requirements—formulated caffeinated beverage

This section reflects clause 3 of Standard 2.6.4. The reference in subsection 2.61(4) to a 'one-day quantity' is not as clear to follow as the current reference in subclause 3(4) where 'one-day quantity' simply appears in the advisory statement.

Part 7—Alcoholic beverages

Division 1—Labelling of alcoholic beverages and food containing alcohol

This Division contains six sections that largely reflect the six clauses in Standard 2.7.1 and overall the revision has no impact. The sections and the clauses they reflect are:

2.62 Meaning of *standard drink*

This section reflects clause 1 of Standard 2.7.1.

2.63 Statement of alcohol content

This section reflects clause 2 of Standard 2.7.1 and converts the table to subclause 2(1) to text.

2.64 Statement of the number of standard drinks

This section reflects clause 3 of Standard 2.7.1.

2.65 Restriction on representations of low alcohol

This section reflects clause 4 of Standard 2.7.1.

2.66 Restriction on representation of 'non-intoxicating'

This section reflects clause 5 of Standard 2.7.1.

2.67 Restriction on representation as non-alcoholic

This section reflects clause 6 of Standard 2.7.1.

Division 2—Beer

2.68 Compositional requirement for beer

This section is based on clauses 1 and 2 that comprise Standard 2.7.2. The phrase 'A food product that is sold on the basis of a representation that it is' would be better replaced by 'A food that is called a' or 'A food named as a'.

Division 3—Fruit wine and vegetable wine

2.69 Meaning of *fruit wine product* and *vegetable wine product*

This section is based on part of clause 1 of Standard 2.7.3 and comprises the definition of fruit wine and vegetable wine product. There is no impact from the revision.

2.70 Compositional requirement for cider, mead, perry, fruit wine and vegetable wine

This section is based on clauses 1 and 2 in Standard 2.7.3. in both subsections 2.70(1) and (2) the phrase 'A food product that is sold on the basis of a representation that it is' is used and in both cases would be better replaced by the phrase 'A food that is called a' or 'A food named as a'.

Division 4—Wine and wine product

2.71 Meaning of *wine product*

This section is based on part of clause 1 of Standard 2.7.4 and comprises the definition of wine product. While there is no impact from the revision, to dedicate a section to '*wine product*' when it is a subordinate substance to '*wine*' is confusing, irritating and counter-intuitive. FGC considers that the definitions should be located together either at the start of this Division or in section 1.06.

2.72 Compositional requirements for wine

This section is based on clause 2 of Standard 2.7.4 and the revision has no impact.

Division 5—Spirit

2.73 Compositional requirements for brandy, liqueur and spirit

This section is based on clause 1 of Standard 2.7.5 and while the revision generally has no impact, in subsections 2.73(1), (2) and (3) the phrase 'A food product that is sold on the basis of a representation that it is' is used and in all three cases would be better replaced by the phrase 'A food that is called a' or 'A food named as a'.

2.74 Restriction on use of geographical indications

This section reflects clause 4 of Standard 2.7.5 and the revision has no impact.

Part 8—Sugars and honey

Division 1—Sugars

2.75 Meaning of *icing* and *sugars*

This section reflects most of clause 1 of Standard 2.8.1 and the revision has no impact.

2.76 References to sugar

This section reflects clause 2 of Standard 2.8.1 and the revision has no impact.

2.77 Compositional requirement for white sugar

This section reflects clause 3 of Standard 2.8.1 and while the revision generally has no impact, the phrase 'A food that is sold on the basis that it is' is used in relation to 'white sugar'. The term 'representation' has been omitted but even so the phrase is not clear as to the intention, whether the substance looks like white sugar, tastes like white sugar or is named white sugar. FGC favours a replacement phrase 'A food that is named'.

2.78 Compositional requirement for icing

This section reflects part of clause 1 of Standard 2.8.1 and while the revision generally has no impact, the phrase 'A food that is sold on the basis that it is' is used in relation to 'icing'. As noted above, FGC favours a replacement phrase 'A food that is named'.

Division 2—Honey

2.79 Compositional requirement for honey

This section reflects clauses 1 and 2 of Standard 2.8.2 and while the revision generally has no impact, the phrase 'A food that is sold on the basis that it is' is used in relation to 'honey'. As noted above, FGC favours a replacement phrase 'A food that is named'.

2.80 Prescribed name

This section reflects clause 3 of Standard 2.8.2 and the revision has no impact.

Part 9—Special purpose foods

Division 1—Infant formula products

Subdivision A—Preliminary

2.81 Outline of Division

The outline of the Division amends the purpose statement contained in Standard 2.9.1 and the revision has no impact.

2.82 Definitions

Several of the definitions contained in clause 1 of Standard 2.9.1 are amended and one definition is moved. The comments are as follow:

infant formula product – the final phrase is amended to read “which is nutritionally adequate to serve by itself as the sole or principal liquid source of nourishment for infants.” The issue is whether ‘sole or principal’ could be read as synonyms when the intention is that they be read as alternates. Infant formula product must be able to provide the sole source of nourishment for the infant to 4-6 months. Beyond this it can, by itself, be a principal source of liquid nourishment along with other sources of nourishment. On this basis, the definition would be clearer and more accurately reflective of the current interpretation if it read:

“**infant formula product** means a product based on milk or other edible food constituents of animal or plant origin which is nutritionally adequate to serve by itself as either the sole or principal liquid source of nourishment for infants depending on the age of the infant.”

There are no impacts of revision or no revision to the remaining definitions:

infant formula

follow-on formula

pre-term formula

soy-based formula

***medium chain triglycerides
protein substitute.***

lactose free formula – this definition has been deleted in favour of a compositional provision only. There is no impact from its deletion.

2.83 Interpretation

Interpretation of compositional requirements

The amendments forming subsection (1) are made to clause 2 of Standard 2.9.1. The amendments streamline the text.

Calculation of energy, protein and potential renal solute load

The calculations for energy, protein and potential renal solute load have been moved to the Schedules and specifically sections S30.01, S30.02 and S30.03 in Schedule 30. Subsection (2) therefore contains simply a cross reference. This creates a significant disjoint between sections that become signposts and the equations to which they refer. The following sections contain calculations in the form of equations:

- 1.112 Calculating proportion of characterising ingredients
- 1.115 Method of calculating proportion of characterising components
- 1.124 (part of) Maximum permitted levels of food additives in foods
- 1.126 Food additives performing the same purpose
- 1.130 Calculation of maximum quantity of a vitamin or mineral which may be claimed in a reference quantity of food
- 1.142 Maximum levels of contaminants and natural toxicants in food
- 1.145 Maximum residue limit of agvet chemicals in foods
- 1.146 Extraneous residue limit
- 2.59 Meaning of *one-day quantity*

There is no reason why the calculations for energy, protein and potential renal solute load (sections S30.01 to S30.03) should not be within the body of the Code rather than in the Schedules. Schedule 30 is commented on later in this submission.

Subdivision B—General compositional requirements for infant formula products

This subdivision is a revised version of Subdivision 3 of Standard 2.9.1. The first clause in this subdivision was clause 6 ‘Restrictions and prohibitions’. Subclause (1) stated that:

- “A vitamin, mineral, food additive or nutritive substance must not be added to infant formula product unless –
- (a) expressly permitted by this Code; or
 - (b) it is naturally present in an ingredient of the infant formula product.”

This has been deleted and paragraph 1(1)(a) now appears in the definition of ‘used as a nutritive substance’ and paragraph 1(1) (b) appears in subsection 1.21(5). This revision is supported.

Subclause (2) stated that infant formula product must contain no detectable gluten. This provision is intended to be covered in section 2.87 which provides for restrictions on other substances. This revision is supported.

2.84 Use of substances as nutritive substances

This section is the result of revision proposed to clause 7 in Standard 2.9.1. The table to clause 7 is now located in S30.04 of the Schedules and is commented on later in this submission. The headings that precede what were subclauses 7(1) and (2) are useful signposts to the content of the section.

Paragraph 2.84(1)(b) refers to the amount of the substance in column 3 of the table “(taking into account both the naturally-occurring and added substance)”. Currently, the relevant

paragraph refers to the total amount of added and any naturally occurring amount of the substance. There is no difference in intent but the revised text is clearer and is supported. Similarly subsection 2.84(2) is a clearer statement of what is currently subclause 7(2) and is supported.

2.85 Addition of lactic acid producing microorganisms

This section is the result of revisions to clause 9 of Standard 2.9.1. The key change is to refer to 'lactic acid producing microorganisms' rather than 'lactic acid cultures'. The revised terminology is a more accurate term from a scientific perspective.

2.86 Permitted quantities of added inulin-derived substances and galacto-oligosaccharides

This section is a redraft of clause 9A in Standard 2.9.1. It combines the start of subclause 9A(1) and all of subclause 9A(2) into a single, more definitive introductory statement such that 'may contain ... no more than' is now 'must contain ... no more than'. This is a clearer statement and is supported.

2.87 Restriction on levels of other substances in infant formula product

This section combines what is currently subclause 6(2) concerning gluten with the provisions in clauses 8 and 10 concerning restrictions on the level of nucleotide 5'-monophosphates and aluminium respectively. Collocating these restrictions is helpful and clearer.

Subdivision C—Infant formula and follow-on formula

This Subdivision reflects revisions to what is currently Division 2 in Standard 2.9.1.

2.88 Infant formula and follow-on formula—composition

Subsection 2.88(1) deals with the minimum and maximum levels of energy content, protein and fat for infant formula only while subsection 2.88(2) deals with the maximum levels for same substances for follow-on formula. The separation improves useability.

2.89 Infant formula and follow-on formula—protein

Subsection 2.89(1) contains a cross reference to a table in section S30.05 of Schedule 30 which is commented on separately later in this submission. However, the table is so small as to have greater utility if collocated with section 2.89. The provision is clearer in that it provides that the L-amino acids must be present at 'a level no less than the corresponding minimum level' in the table. Subsection 2.89(2) reflects technical changes only.

Subsection 2.89(3) states that L-amino acids may be added 'only in an amount necessary to meet the minimum amino acid requirements.' Currently, subclause 22(3) in Standard 2.9.1 provides that L-amino acids must be added 'only in an amount necessary to improve protein quality'. The change is significant. It removes any linkage between L-amino acids and protein quality but more importantly, it significantly constrains any flexibility available to industry and presents enforceability issues for the added amount to be excessively precise. This revision is not supported and is beyond the scope of P1025.

2.90 Infant formula and follow-on formula—fat

This section comprises revisions to the current clause 23 and the revisions have no impact. The table to the clause is moved to S30.07 of Schedule 30 which is commented on later in this submission. However, the table is so small as to have greater utility if collocated with section 2.90.

2.91 Infant formula and follow-on formula—vitamins, minerals and electrolytes

This section comprises revisions to the current clause 24. The table to the clause is moved to S30.08 of Schedule 30 which is commented on later in this submission.

Subsection 2.91(2) is recast from paragraph 24(1)(a) and now appears as a separate table (in S30.06) of permitted forms of the vitamins, minerals and electrolytes. However, in stating that “Any vitamins, minerals or electrolytes that are used as nutritive substances ...” ignores the prospect that they might be used for purposes other than nutritive or that they might have multiple uses – that they might be used as an additive or processing aid. For example, vitamin E might be used as an antioxidant (an additive) and as a nutrient. Subsection 2.91(2) might therefore also apply to vitamins, minerals or electrolytes used as nutritive substances or food additives or processing aids.

This appears to be addressed by the note to the table to subsection (4) of section 1.21 (Requirements relating to food product on sale) that states:

“There is an overlap between these categories. For example, some substances may be used as a food additive or as a nutritive substance. For such substances, there will be different provisions permitting use of the substance for different purposes.”

However, NZFGC considers this to be part of the fundamental concept and that the content of the note should be reflected in the provisions of the Code. The remaining revisions in the section have no impact.

Subdivision D—Infant formula products for special dietary use

This subdivision reflects amendments to what is currently Division 3 in Standard 2.9.1.

2.92 Products formulated for premature or low birthweight infants

Subsection (1) is intended to provide that the requirements of the Division do not apply if it would prevent the sale of the special infant formula. This ensures the flexibility for scientifically and medically substantiated substances to be added to these products to meet the needs of the specific infant group. This is particularly important since all or almost all these products are formulated and produced overseas and are imported to Australia and New Zealand for administration by health professionals.

The amendments to subsection (2) do not have an impact.

2.93 Products for metabolic, immunological, renal, hepatic and malabsorptive conditions

Subsection (1) is intended to provide that the requirements of the Division do not apply if it would prevent the sale of the special infant formula. As above, this ensures the flexibility for scientifically and medically substantiated substances to be added to these products to meet the needs of the specific infant group. Also as above, this is particularly important since all or almost all these products are formulated and produced overseas and are imported to Australia and New Zealand for administration by health professionals. NZFGC considers, however, that it is not clear that, for example, in relation to lactose-free product, all the compositional requirements other than that relating to lactose must be complied with. NZFGC believes that this has the potential to be interpreted more broadly and that what is intended is that those aspects of composition specific to the condition can be varied but all other compositional requirements must otherwise be met.

The revisions to subsection (2) do not have an impact.

Subsections (3) to (6) provide the compositional and labelling provisions for lactose free and low lactose infant formula. There is no impact from the revisions.

2.94 Products for special dietary use based on a protein substitute

Subsection (1) is moved from clause 32 and has no impact. Subsection (2) is a composite from a couple of clauses and a table, converting the table into text. The revisions have no impact. Subsection (3) is new but provides for complete coverage and subsection (4) is from clause 34 and neither revisions have an impact.

Subdivision E –labelling and packaging requirements

There is no impact from revisions in the following sections:

- 2.95 Representations about food as infant formula product**
- 2.96 Prescribed names**
- 2.97 Requirement for measuring scoop**

2.98 Requirement for warning statements and directions

Some duplication has been removed with the revisions made to this provision. The key concern is in relation to paragraph 2.98(1)(d) concerning the information under the heading 'important notice'. The current provision in subclause 14(3) of Standard 2.9.1 provides that the warning statement that must appear on the label can be the text provided "or any word or words having the same or similar effect". As a result, by omitting this provision, many labels would need to be changed, a consequence that would put the revision out of the scope of P1025.

2.99 Print size

The print size is to be specified as 'of at least' rather than 'no less than'. There is no impact from this revision.

2.100 Declaration of nutrition information

Paragraph 2.100(1)(a)(iii) requires nutrition information for the average amount of each vitamin 'whether added or naturally occurring'. This is a new addition and is not clearer. For example, calcium is still calcium whether added or naturally occurring and the additional phrase does not support a science-based approach on the basis that the digestive system does not distinguish whether the calcium is added or naturally occurring simply that it is present. It is clearer to refer simply to the average amount.

The balance of the Section removes duplication and some repetition and has no other impact.

There is no impact from revisions to the following sections:

- 2.101 Date marking and storage instructions**
- 2.102 Statements of protein source and dental fluorosis**
- 2.103 Prohibited representations**

Division 2—Food for infants

There is no outline of this Division which may be helpful at add.

2.105 Definitions

The revisions the definitions have no impact.

2.106 Food for infants—general compositional requirements

This section is based on clause 2 in Standard 2.9.2. The current clause provides that food for infants may include sugars which are defined as including honey but that the total of sugars in vegetable juice, fruit drink or a non-alcoholic beverage must not be more than 4g/100g. The revised paragraph 2.106(1)(e) now excludes reference to honey and refers to the particular sugars: monosaccharide and disaccharide content. Clarity is lost as to the use of honey in vegetable juice, fruit drink or a non-alcoholic beverage.

Current paragraph 2(2)(c) in Standard 2.9.2 does not state that the amount of inulin-derived substances or galacto-oligosaccharides is the added and naturally occurring amount. This Subsection 1.106(2) makes this clear. However, for those manufacturers who have

interpreted the current provision as referring only to added inulin-derived substances or galacto-oligosaccharides, this change is significant.

Subsection 2.106(3) adds the term 'ingredient' to foods for infants that may contain lactic acid producing microorganisms. This may have an impact if such microorganisms are not ingredients but perform some other function.

Subsection 2.106(4) reads that if food for infants is intended for infants under the age of 6 months, it must meet certain conditions. Paragraph 2.106(4)(b) states that for a food other than rusks, it must have a texture that is soft and free of lumps. This is based on the contents of an Editorial note to subclause 2(5) which reads:

"The intent of subclause (5) is to ensure that the food, except in the case of rusks, should have a texture that is soft and free of lumps."

While it is likely that industry complies with this requirement, NZFGC considers it goes beyond the scope of P1025 and warrants separate consultation.

The following sections reflect subclauses 3(1) and 3(2) and clause 4 and clause 5 respectively and the revisions have no impact although it is noted that the comments made regarding sugars and honey may also apply to section 2.110:

2.107 Additional compositional requirements for cereal-based food for infants over the age of 6 months

2.108 Additional compositional requirements for cereal-based foods for infants over the age of 4 months

2.109 Additional compositional requirements for non-cereal-based food for infants

2.110 Labelling

2.111 Additional labelling requirements relating to specific nutrients and energy information

This section is based on clause 6 in Standard 2.9.2. Subclause 6(1) refers to the term 'source of protein' as being a permitted term on the label. This is omitted in paragraph 2.111(1)(a).

2.112 Representations

This section reflects clause 7 in Standard 2.9.1 and the revision has no impact.

2.113 Claims about vitamins and minerals

This section reflects clause 8 in Standard 2.9.1 and while the revision has no impact, the Table 1 that accompanied clause 8 is now found in S30.10 of Schedule 30. This table has six entries and NZFGC strongly supports its inclusion in the body of the Code rather than its separation for usability reasons. There is also no reference to Schedule 1 in this section where this would clearly be relevant.

The following sections reflect clause 9 to 11 in Standard 2.9.1 and the revisions have no impact:

2.114 Nutrition information

2.115 Food in dehydrated or concentrated form

2.116 Storage requirements

Division 3—Formulated meal replacements and formulated supplementary foods

Subdivision A—Interpretation

2.117 Interpretation

This section contains one definition for the Division, 'serving'. There are four other definitions in the Division, three of which apply to the Code. NZFGC strongly supports their collocation at the start of the Division as is the case in Standard 2.9.3. Distributing them throughout the Division is frustrating and reduces utility.

Subdivision B—Formulated meal replacements

2.118 Meaning of formulated meal replacement

As noted above, the definition of 'formulated meal replacement' should appear at the start of the Division. It is suggested that the definition not be allocated a title 'Meaning of formulated meal replacement' but simply 'definition'. Subsection 2.118(b) reads "is represented as a formulated meal replacement". In Standard 2.9.3 this is referred to as sold as. The term 'represented' has particular concerns dealt with earlier in this submission. NZFGC does not support this terminology.

2.119 Compositional requirements for formulated meal replacements

This section reflects clause 2 in Standard 2.9.3 and while the revision has no impact at this time, there is concern that there may well be a consequential impact flowing from the use of the terms 'nutritive substance' as a result of the review of nutritive substances currently underway. This concern applies to the use of references to nutritive substance throughout the balance of this Division. For example, it suggests that vitamins and minerals may only be added for nutritive purposes. This may not always be the case.

2.120 Labelling of formulated meal replacements

This section reflects clause 2 in Standard 2.9.3. To avoid confusion it would be preferable to state that the vitamins and minerals referred to in paragraph 2.120(1)(a) must be present but can be naturally present or added.

Subdivision C—Formulated supplementary foods

2.121 Meaning of formulated supplementary food

The comments made in relation to section 2.118 apply also to this section – that it should be at the start of the Division, that it should be headed 'definitions' and that it should not refer to 'represented as'. It is not clear why the words 'and sold on the basis of' have been added to the definition. Clarification of the rationale would assist in determining the impact.

The following two sections reflect clauses 4 and 5 in Standard 2.9.3 and the revisions have no impact although the reservations concerning use of the term 'used as a nutritive substance' apply to these sections:

2.122 Compositional requirements for formulated supplementary foods

2.123 Labelling of formulated supplementary foods

Subdivision D—Formulated supplementary foods for young children

2.124 Meaning of *formulated supplementary food for young children*

The comments made in relation to section 2.118 and reiterated for section 2.121 apply also to this section – that it should be at the start of the Division, that it should be headed 'definitions' and that it should not refer to 'represented as'.

2.125 Compositional requirements for formulated supplementary foods for young children

This section reflects clauses 6 and 6A in Standard 2.9.3. Subsection 2.125(3) changes the wording around inulin derived substances and GOS and while this appears not to have an impact, there may be some companies that have interpreted this differently and for whom the change may present issues. Lutein as a nutritive substance has also been removed. Paragraph 1.125(2)(c)(ii) seems to have added the permission for use of the permitted forms

of vitamins and minerals for formulated supplementary sports foods and formulated meal replacements, not for formulated supplementary foods for young children.

2.126 Labelling of formulated supplementary foods for young children

This section reflects clause 7 in Standard 2.9.3 and the revisions have no impact other than the use of the term 'used as a nutritive substance' as noted above.

Division 4—Formulated supplementary sports foods

Subdivision A—Formulated supplementary sports foods generally

2.127 Definitions

This section reflects clause 1 in Standard 2.9.4 and the revision has no impact.

2.128 Composition of formulated supplementary sports foods

This section is based on clause 2 in Standard 2.9.4 and while the revision has no impact, the table in S30.18 is so small as to warrant its collocation with the relevant subsection in the revised Code. As noted in relation to section 2.119 above, there is concern that there may well be a consequential impact flowing from the use of the terms 'nutritive substance' as a result of the review of nutritive substances currently underway. This concern applies to the use of references to nutritive substance throughout the balance of this Division

The following sections reflect clauses 3 to 6 in Standard 2.9.4 and the revisions are confusing because it is not clear whether ingredients that are not nutritive substances can have claims made about them. This confusion needs to be clarified for the revised Code. To avoid confusion it would be preferable to state in the Schedule that these must be present but can be naturally present or added. Some minor changes have been in the Schedules to these sections which are commented on later in this submission:

2.129 Labelling information

2.130 Nutritive substance claims

2.131 Vitamin and mineral claims

2.132 Prohibition on representations

Subdivision B—Particular formulated supplementary sports foods

The following sections reflect clauses 7, 8 and 9 in Standard 2.9.4 and while the revisions have no impact, definitions in each case are provided at the end of the sections after the term has been used. As noted in several places in this submission, NZFGC strongly supports collocation of definitions at the start of divisions or at least before they are used.

2.133 High carbohydrate supplement

2.134 Protein energy supplement

2.135 Energy supplement

Division 5—Food for special medical purposes

Subdivision A—Preliminary

2.136 Meaning of *food for special medical purposes*

NZFGC considers this term a definition that should be placed in the next section. The revision of the definition has no impact.

2.137 Definitions

The definitions in this section reflect the definitions in clause 2 of Standard 2.9.5 and the revisions have no impact

The following sections reflect clauses in Standard 2.9.5 and the revisions have no impact:

- 2.138 Application of other Standards**
- 2.139 Claims must not be therapeutic in nature**

Subdivision B—Sale of food for special medical purposes

2.140 Restriction on the persons by whom, and the premises at which, food for special medical purposes may be sold

This section reflects clause 5 in Standard 2.9.5 and the revision has no impact.

Subdivision C—Composition

The following sections reflect clauses 6 and 7 in Standard 2.9.5 and the revisions have no impact:

- 2.141 Permitted forms of particular substances**
- 2.142 Compositional requirements for food represented as being suitable for use as sole source of nutrition**

Subdivision D—Labelling

The following sections reflect the remaining clauses in Standard 2.9.5 and the revisions have no impact:

- 2.143 Labelling and related requirements**
- 2.144 Mandatory labelling information**
- 2.145 Advisory and warning statements—food for special medical purposes**
- 2.146 Information relating to ingredients—food for special medical purposes**
- 2.147 Date marking information—food for special medical purposes**
- 2.148 Nutrition information—food for special medical purposes**
- 2.149 Claims in relation to lactose content**
- 2.150 Claims in relation to gluten content**
- 2.151 Labelling requirement—food for special medical purposes in inner package**
- 2.152 Labelling requirement—food for special medical purposes in transportation outer**

Division 6—Transitional standard for special purpose foods (including amino acid modified foods)

The following sections reflect the clauses in Standard 1.1A.6 and the revisions have no impact:

- 2.153 Meaning of amino acid modified food and special purpose food**
- 2.154 Application**
- 2.155 Composition**
- 2.156 Labelling of special purpose foods**
- 2.157 Labelling of amino acid modified foods**

Part 10—Standards for other foods

Division 1—Vinegar and related products

2.158 Compositional requirement for vinegar and imitation vinegar

Other than repeating the comments on the placement of definitions made throughout this submission, that they should be placed at the start of divisions or section, the revision has no impact.

Division 2—Salt and salt products

Subdivision A—Compositional requirements

2.159 Compositional requirement for salt

Other than repeating the comments on the placement of definitions made throughout this submission, that they should be placed at the start of divisions or section, the revision has no impact.

The following sections reflect the remaining clauses in Standard 2.10.2 and the revisions have no impact:

2.160 Compositional requirement for reduced sodium salt mixture

2.161 Compositional requirement for salt substitute

2.162 Compositional requirement for iodised salt

Subdivision B—Labelling requirements

2.163 Labelling requirement for reduced sodium salt mixtures and salt substitutes

Division 3—Chewing gum

2.164 Meaning of *releasable calcium*

Other than repeating the comments on the placement of definitions made throughout this submission, that they should be placed at the start of divisions or section, the revision has no impact.

The following sections reflect the remaining clauses in Standard 2.10.3 and the revisions have no impact:

2.165 Addition of calcium to chewing gum

2.166 Claims about the presence of calcium in chewing gum

2.167 Labelling requirements

Volume 2, Schedules 1 to 30

Introductory comment

Overall, NZFGC agrees with having tables and certain other information separate to the main body of the standards in the Code. However, some of the information is so minimal as to be an irritation by being separate or is an integral requirement that should not be separated. There is no precedent for not having tables, calculations and formulae retained in the main body of the Code. Very small tables and other information are far easier to use if they are in the Code and a number of sections and tables in the Schedules could be reinserted in the body of the Code in the same way.

Schedule 1—RDIs and ESADDIs

S1.01 RDIs and ESADDIs for vitamins

This section provides RDIs and ESADDIs for vitamins. Some values have changed in the revised table and need to be corrected:

Niacin, column 3, 1.1 mg should be 10mg

Vitamin D, column 4, 10µg should be 5 µg

Vitamin D, column 5, 10µg should be 5 µg

Subsection S1.01(2) should be contained in section 1.07 in the revised Code.

S1.02 RDIs and ESADDIs for minerals

This section provides RDIs and ESADDIs for minerals. There the revision has no impact.

S1.03 Calculation of retinol equivalents for carotenoid forms of vitamin A

The title for this section is incorrect. It has been changed to 'carotene forms' from 'carotenoid forms'. The latter is correct and remains the title of the first column in the table.

This section contains four entries in a table. The table should be included in section 1.07 in the revised Code where it would have greater utility.

S1.04 Calculation of alpha-tocopherol equivalents for vitamin E

This section contains seven entries in a table. The table should be included in section 1.07 in the revised Code where it would have greater utility.

Schedule 2—Units of measurement

S2.01 Units of measurement

This section contains the table to clause 8 in Standard 1.1.1. The revision has no impact.

Schedule 3—Identity and purity

This Schedule contains 25 sections drawn from Standard 1.3.4. In the revision of many of the specifications the language has changed or the form of presentation has changed. On the whole this has been done consistently. However, there are a few lapses. One such is in relation to the term 'whereby' which was used extensively in the specifications in Standard 1.3.4 and has generally but not always been replaced by 'as a result of which'. A check will show that, for consistency, 'whereby' should be replaced in sections S3.05(1), S3.10(1)(a) and (b) and S3.24(1).

S3.01 Substances with specifications in primary sources

This section is drawn from clause 2 to Standard 1.3.4. Subsection S3.01(2) is new and provides a reference to the section in Schedule 3 for a range of substances. This seems redundant since the substance name is in the title of each section and the index to the schedules contains all the titles.

S3.02 Substances with specifications in secondary sources

This section reflects clause 3 in Standard 1.3.4. The revision has no impact.

S3.03 Additional and supplementary requirements

This section reflects clause 4 in Standard 1.3.4. The revision has no impact. The section is very small but for completeness is appropriate to remain with companion sections in Schedule 3.

The following sections S3.04 to S3.029 in this Schedule are all drawn from the schedule to Standard 1.3.4

S3.04 Specifications for Advantame

This section converts a table into text which is harder to read but consistent with the other sections in this Schedule. 'Advantame' is capitalised in the title while no other substances in subsequent sections are. Otherwise the revision has no impact.

S3.05 Specification for agarose ion exchange resin

There is no revision of this provision and no impact.

S3.06 Specification for bentonite

The only revision is in relation to references and there is no impact.

S3.07 Specification for bromo-chloro-dimethylhydantoin

The provision has been ordered into a numbered list and there is no impact from this revision. However, in subsection S3.07(1), the CAS number for bromo-chloro-dimethylhydantoin is provided in brackets where in all other cases in this Schedule the CAS number is prefaced by "...means the chemical with the CAS number ...".

In subsection S3.07(4) several abbreviations are referenced that are not defined: 'GLC', 'HPLC' 'UV', and 'NMR'.

S3.08 Specification for carboxymethyl cellulose ion exchange resin

There is very minor revision of this information and there is no impact.

S3.09 Specification for dibromo-dimethylhydantoin

This section converts a table into text and there is no impact. However, there is a semicolon missing after paragraph S3.09(2)(b).

S3.10 Specification for diethyl aminoethyl cellulose ion exchange resin

The only revision is in numbering the information in this section and there is no impact.

S3.11 Specification for dimethyl ether

This section converts a table into text and there is no impact.

S3.12 Specification for dried marine micro-algae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA)

The only revision is in numbering the information in this section and there is no impact.

S3.13 Specification for ice structuring protein type III HPLC 12 preparation

This section converts a table into text and there is no impact. However, reference to the genus *Listeria* is usually capitalised and italicised as is *Salmonella* and *Bacillus cereus*.

S3.14 Specification for isomaltulose

The only revision is in numbering the information in this section and there is no impact. However, Subsection S3.14(a) ends with a colon instead of a semicolon.

S3.15 Specification for *Listeria* phage P100

The only revision is in numbering the information in this section and there is no impact.

S3.16 Descriptions and physical constraints for nucleotides

The main revision is in numbering the information in this section and there is no impact.

S3.17 Testing requirements for nucleotides

This section converts three tables into numbered lists in text and there is no impact.

S3.18 Specification for oil derived from the algae *Cryptocodinium cohnii* rich in docosahexaenoic acid (DHA)

The only revision is in numbering the information in this section and there is no impact.

S3.19 Specification for oil derived from the fungus *Mortierella alpina* rich in arachidonic acid (ARA)

The only revision is in numbering the information in this section and there is no impact.

S3.20 Specification for oil derived from marine micro-algae (*Schizochytrium* sp.) rich in docosahexaenoic acid (DHA)

The only revision is in numbering the information in this section and there is no impact.

S3.21 Specification for oil derived from marine micro-algae (*Ulkenia* sp.) rich in docosahexaenoic acid (DHA)

This section converts a table into text and there is no impact.

S3.22 Specification for oxidised polyethylene

The main revision is in numbering the information in this section and there is no impact.

S3.23 Specification for phytosterols, phytostanols and their esters

The only revision is in relation to references and these have no impact.

S3.24 Specification for quaternary amine cellulose ion exchange resin

The only revision is in numbering the information and there is no impact.

S3.25 Specification for resistant maltodextrins

This section converts a table into text and there is no impact.

S3.26 Specification for tall oil phytosterol esters

The only revision is in numbering the information. Subsection S3.26(1) omits a fullstop at the end; paragraphs S3.26(2)(iii) and (iv) use the term 'no less than' when this should refer to 'no more than'; and paragraph S3.26(3)(d) uses caps and italics for '*E. coli*' and italics for '*salmonella*' which is inconsistent, though correct, with similar references in S3.13(f)(v), S3.17(i)(iv) S3.25(l)(iii), and Schedule 27.

S3.27 Specification for yeast—enriched selenium

The only revision is in numbering the information and there is no impact.

S3.28 Specification for yeast—high chromium

The only revision is in numbering the information and there is no impact.

S3.29 Specification for yeast—high molybdenum

The only revision is in numbering the information and there is no impact. However, subsections S3.29(a) and (b) do not add the term 'the following' after 'the specifications are' which has been the convention in all the previous specifications.

Schedule 4— Nutrition, health and related claims

The sections in this Schedule reflect without change the schedules to Standard 1.2.7. There is therefore no impact from the revisions.

S4.01 Conditions for nutrition content claims

S4.02 Conditions for permitted high level health claims

S4.03 Conditions for permitted general level health claims

S4.04 Nutrient profiling scoring criterion

This section sets out the criteria for the nutrient profiling scoring system. There are 3 categories only and section 1.71 would be greatly enhanced and far more usable if this small table was collocated with the section.

Schedule 5— Nutrient profiling scoring method

The following sections reflect the sections in Schedule 5 to Standard 1.2.7 and there is no impact from revisions. Minor comments are made where necessary:

S5.01 Steps in determining a nutrient profiling score**S5.02 Baseline points**

The title in table 2 in this section is capitalised while the table 1 title is not.

S5.03 Fruit and vegetable points (V points)

The references in subsection S5.03 to the columns and tables in S5.02 are capitalised when this is not the case elsewhere in the revised Code.

In subsection S5.03(8) a formula is provided for the percentage of total fvnI. This is represented in the formula as '*P*' but the symbol is not formally defined as in other formula. It should also be defined first in line with its appearance first in the formula.

S5.04 Protein points (P points)

In this section and section S5.05, tables 4 and 5 refer, in column 2, to 'per 100g or 100ml' when the convention established in the revised Code is 'unit quantity'.

S5.05 Fibre points (F points)**S5.06 Calculating the final score**

The terms in the formula in this section are defined in alpha. They should be defined in the order in which they appear in the formula.

Schedule 6— Required elements of a systematic review**S6.01 Required elements of a systematic review**

This Schedule mirrors Schedule 6 to Standard 1.2.7 and there is no impact from revision.

Schedule 7— Food additive class names (for statement of ingredients)**S7.01 Food additive class names**

This section reflects the table in Schedule 1 to Standard 1.2.4 in a slightly different format. There is no impact from the revision. A small grammatical needs correction: the word 'the' has been repeated in the introduction.

Schedule 8— Food additive names and code numbers (for statement of ingredients)**S8.01 Food additive names and code numbers—alphabetical order**

This section reflects the table in Part 1 of Schedule 2 to Standard 1.2.4 and there is no impact from revision. However, it is noted that in this section and section S8.02, the note about changes to the term 'Tocopherols concentrate, mixed' has been omitted.

S8.02 Food additive names and code numbers—numerical order

This section reflects the table in Part 2 of Schedule 2 to Standard 1.2.4 and there is no impact from revision.

Schedule 9— Mandatory advisory statements**S9.01 Mandatory advisory statements**

This section reflects the table to clause 2 in Standard 1.2.3. the layout is revised and the entries numbered. These and other minor revisions have no impact.

Schedule 10— Generic names of ingredients and conditions for their use

S10.01 Generic names of ingredients and conditions for their use

The table in this section is drawn from the table to clause 4 in Standard 1.2.4. There are two columns in the table, the first for the generic name and the second for condition for use. Currently the table contains the statement 'No specific condition set' for a generic name having no conditions for use. Now the second column is simply left blank. Rather than being blank, either the phrase previously used or a dash '-' would confirm there is not an omission. It should be noted that the phrase 'no quantity set' has been used to good effect in the table in section S30.13 presumably to avoid doubt.

Schedule 11— Calculation of values for nutrition information panel

S11.01 Calculation of average energy content

Subsection S11.01(1) is drawn from the definition of average energy quantity in Standard 1.2.8. The text of the definition is converted into a formula and while the terms in the formula are defined in alpha when they should be defined in the order in which they appear in the formula, there is no impact from the revision.

Subsection S11.01(2) is drawn from the tables to clause 2 in Standard 1.2.8.

S11.02 Calculation of available carbohydrate and carbohydrate by difference

This section is drawn from the definition of carbohydrate in Standard 1.2.8. Usability would be greatly enhanced if these definitions reverted to their place in the Division on Nutrition information panels.

S11.03 Methods of analysis for dietary fibre and other fibre content

This section is drawn from clause 18 in Standard 1.2.8 by converting a table into numbered text. The text is easier to use. The editorial note to clause 18 which sets out an example of calculating the dietary fibre should not be lost through revision and perhaps instead included in a guidance document.

Schedule 12— Nutrition information panels

This Schedule collates all the examples of nutrition information panels for relevant sections in the revised Code. The key problem is that in some instances the text of a section in the Code is referring to parts of the panel and this only makes sense when the example of the panel is next to the section. For this reason, all the panels should revert to inclusion in the body of the Code.

S12.01 Format for nutrition information panel—subsection 1.101(2)

This panel should remain in the body of the Code.

S12.02 Format for nutrition information panels—subsection 1.101(4) and 1.101(3)

This panel should remain in the body of the Code.

S12.03 Format for nutrition information panel—percentage daily intake information

This panel should remain in the body of the Code.

S12.04 Sample format for nutrition information panel—formulated caffeinated beverages

This panel should remain in the body of the Code.

S12.05 Nutrition information panel—food for infants

This panel should remain in the body of the Code.

S12.06 Nutrition information panel—calcium in chewing gum

This panel should remain in the body of the Code.

Schedule 13— Nutrition information required for food in small packages**S13.01 Nutrition information required for food in small packages**

This section is drawn from the table to clause 8 in Standard 1.2.8 and the revision has no impact.

Schedule 14— Technological purposes performed by food additives

NZFGC considers the title of this Schedule is inconsistent with the definition of the revised term 'used as a food additive' and should be titled "Technological purposes performed by substances used as food additives". Similarly, where 'food additives' are referred to in the Schedule, the reference should be consistent with the expression 'used as a food additive'.

There is also a disjunct between the term 'technological purpose' and the column heading 'functional class'. The latter is currently used to refer to the function of the food additive by class. Since the 'function' has been replaced by 'purpose', 'functional class' is a misnomer.

Schedule 15—Substances that may be used as food additives

There are no impacts of the revision of this table on infant formula products.

S15.01 Permissions to use substances as food additives

This section reflects clause 3 in Standard 1.3.1 and the revision has no impact. The description of the application of the hierarchy is a significant improvement on the clarity of the tables.

S15.02 Preparations of food additives

This is a useful clarification of the application of part of Schedule 1 in Standard 1.3.1.

S15.03 Interpretation

This section defines terms used in the tables. These should be listed alphabetically. The revisions have no impact.

S15.04 Table

These are the food additive tables – a more descriptive title to the section is warranted. The table places commas to delineate thousands from hundreds. This is not the convention because commas can be easily misplaced. The commas should therefore be removed.

Schedule 16—Definitions for certain types of substances that may be used as food additives**S16.01 Meaning of *additive permitted at GMP***

This section contains the table from Schedule 2 to Standard 1.3.1. There are no impacts of the revision of this table. However, it is noted that the heading to the table in S16.01 incorrectly refers to the entire table as a numerical listing when the first part of the list is an alphabetical listing.

S16.02 Meaning of *colouring permitted at GMP*

This section contains the table from Schedule 3 to Standard 1.3.1 which is in numerical form. Section S16.02 also helpfully provides an alphabetic listing. There are no impacts from these revisions.

S16.03 Meaning of *colouring permitted to a maximum level*

This section contains the table from Schedule 4 to Standard 1.3.1. There are no impacts of the revision of these tables.

Schedule 17—Vitamins and minerals**S17.01 Permitted forms of vitamins**

This section is drawn from part of column 2 relating to vitamins in the table found in the Schedule to Standard 1.1.1. Under the entry for vitamin A, the current term 'Carotenoid Forms' is changed to 'Carotene Forms'. Reference to 'Carotene forms' is limited to alpha and beta forms and does not represent a group and is therefore the incorrect form to use. NZFGC does not support this change. 'Carotenoid forms' is the correct technical term to use: it represents a group and is the internationally accepted term for the group.

While the term 'Biotin' has been omitted presumably because no permitted form has been specified, for completeness, its appearance in the table removes doubt that it is still permitted to be used. NZFGC supports its continued inclusion for this reason. The same applies to the omission of 'Vitamin K'.

S17.02 Permitted forms of minerals

This section is drawn from part of column 2 relating to minerals in the table found in the Schedule to Standard 1.1.1. As noted above, NZFGC supports inclusion of the minerals 'Chromium', 'Copper', 'Manganese' and 'Molybdenum' on the basis that even though there are no forms permitted, it removes doubt that the minerals are permitted.

S17.03 Permitted uses of vitamins and minerals

This section comprises the table to clause 3 in Standard 1.3.2. The entry for folate under bread for bread that contains no wheat flour is set at 200µg where currently this level is 100µg.

Schedule 18—Processing Aids**S18.01 Generally permitted processing aids—substances for section 1.133**

In S18.01 of Schedule 18, the item number '6' has been omitted in error. It should be applied to 'Carbon monoxide' and there should then be a total of 31 substances. Otherwise the revision has no impact.

S18.02 Permitted processing aids for certain purposes

This section comprises the tables to clauses 4 to 10 in Standard 1.3.3. The revision has no impact.

S18.03 Permitted enzymes

This section comprises the tables to clauses 15 to 17 in Standard 1.3.3. The revisions have no impacts. However, scientific convention would suggest that all the sources of the enzymes should be italicised.

S18.04 Permitted microbial nutrients and microbial nutrient adjuncts

This section comprises the table to clause 18 in Standard 1.3.3. The revision has no impact.

S18.05 Permitted processing aids for water

This and the following sections S18.06 to S18.08 comprise the tables to clauses 11 to 14 in Standard 1.3.3 respectively. The revisions have no impact.

S18.06 Permitted bleaching, washing and peeling agents—various foods

S18.07 Permitted extraction solvents—various foods**S18.08 Permitted processing aids—miscellaneous functions****S18.09 Permission to use dimethyl dicarbonate as microbial control agent**

This section comprises the table to clause 19 in Standard 1.3.3. The revision has no impact.

Schedule 19—Maximum levels of contaminants and natural toxicants**S19.01 Interpretation**

As with comments made earlier in this submission, NZFGC strongly supports collocating all definitions or sign posts to definitions at the start of the Code.

S19.02 Calculating levels of contaminants and toxicants

This section comprises the text to various subclauses in clause 1 of Standard 1.4.1. The revision has no impact.

S19.03 Maximum levels of metal contaminants

This section and the following sections S19.04 to S19.07 comprise the tables or text to clauses 2 to 6 in Standard 1.4.1 respectively noting that the entry for mercury in fish which was in the table to clause 2 is now in S19.07. The revisions have no impact.

S19.04 Maximum levels of non-metal contaminants**S19.05 Maximum levels of natural toxicants from the addition of a flavouring substance**

It is noted in relation to this section that ‘sample unit’ is defined at the end of the section when it is used throughout the section from the first line. The term should be defined at the outset either of the Schedules entirely or at the outset of Schedule 19.

S19.06 Maximum levels of natural toxicants**S19.07 Mean Level of mercury in fish****Schedule 20— Maximum residue limits**

Australia only.

Schedule 21— Extraneous residue limits

Australia only.

Schedule 22— Foods and classes of foods

Australia only.

Schedule 23— Prohibited plants and fungi**S23.01 Prohibited plants and fungi**

This section comprises the table in Schedule 1 to Standard 1.4.4. The revision has no impact.

Schedule 24— Restricted plants and fungi**S24.01 Restricted plants and fungi**

This section comprises the table in Schedule 2 to Standard 1.4.4. The revision has no impact.

Schedule 25— Permitted novel foods**S25.01 Sale of novel foods**

This section comprises the table to clause 2 in Standard 1.5.1. The revision has no impact.

S25.02 Exclusive use of novel foods

This section comprises the table to clause 3 in Standard 1.5.1. The revision has no impact.

Schedule 26— Food produced using gene technology

S26.01 Interpretation

As with comments made earlier in this submission, NZFGC strongly supports collocating all definitions or sign posts to definitions at the start of the Code.

S26.02 Permitted food produced using gene technology

This section comprises the table in the Schedule to Standard 1.5.2. The revision has no impact.

Schedule 27—Microbiological limits for foods

S27.01 Microbiological limits for foods

This section comprises the table in the Schedule to Standard 1.6.1. The revision has no impact. However, the table would be greatly enhanced by the inclusion of more descriptive column headings.

Schedule 28— Composition of packaged water

S28.01 Composition of packaged water

This section comprises the table to subclause 2(2) in Standard 2.6.2. The revision has no impact but this table is one that would more usefully placed in the body of the Code.

Schedule 29— Formulated caffeinated beverages

S29.01 Formulated caffeinated beverages

This section comprises the table to subclause 2(2) in Standard 2.6.2. The revision has no impact but this table is very small (9 entries) and is one that should be placed in the body of the Code.

Schedule 30—Special purpose foods

Schedule 30 contains 20 different and separate sections containing tables, calculations or other provisions relevant to special purpose foods. Many sections and tables in this Schedule could be reinserted in the body of the Code. The calculation of energy in S30.1 is a good example. There is no formula, there are less than 10 lines of text and it would be far more useful sitting with the relevant section, section 2.83. NZFGC opposes the inclusion of this and several of the following sections from being included in Schedules when their utility and application would be greatly improved by remaining in the body of the Code.

Of the 20 different sections in Schedule 30, all but two have titles that make it clear what special purpose foods they refer to. The two that are not clear are S30.02 Calculation of fat and S30.03 Calculation of potential renal solute load. Both refer to infant formula products and, for consistency and clarity, if they remain in the Schedules, would be better stated as 'S30.02 Infant formula product—calculation of fat' and 'S30.03 Infant formula product—calculation of potential renal solute load'. However, as noted above, NZFGC strongly favours their inclusion in the body of Code.

S30.01 Infant formula product—calculation of energy

The revisions separate out into paragraphs the current clause such that the ingredients that contribute to energy value (fat, protein and carbohydrate) are listed as (i) to (iii). This section also mandates that energy content be expressed in kilojoules. There is no impact of these revisions as they reflect the provisions of clause 3 of Standard 2.9.1. However, as noted above, NZFGC is strongly of the view that the section would be more useful in the body of the Code.

S30.02 Calculation of protein content

The revision in this section converts text into a formula. The letters used in the equation are defined in the order they appear in the equation. The calculation appears clearer as a result and there are no negative impacts of the revisions. However, as noted above, NZFGC is strongly of the view that the section would be more useful in the body of the Code.

S30.03 Calculation of potential renal solute load

As with S30.02, the revisions in this section convert text into a formula. The calculation appears clearer as a result and there are no negative impacts of the revisions. The terms, however, are defined in alpha order, that is **CI**, **K**, **N**, **NA** and **P_{avail}**. The usual convention with formulae is to define terms as they appear in the formulae has been done for the terms in S30.02 and a number of other equations in the Schedules. This would result in the following order: **Na**, **CI**, **K**, **P_{avail}** and **N**.

Subsection (2) contains a formula for **P_{avail}** used in subsection (1). This is clearer than was reflected in clause 3 of Standard 2.9.1 and is improved with the identification of **P** as phosphorus. NZFGC is strongly of the view that this section would be more useful in the body of the Code.

S30.04 Infant formula products—substances permitted as nutritive substances

This section contains what was the table to clause 7 in Standard 2.9.1. The section and the table are titled 'Infant formula products—substances permitted as nutritive substances' and the last two columns are reversed so that Column 3 is now 'Maximum amount per 100kJ' and Column 4 is 'Minimum amount per kJ'. There seems no reason for this reversal. A number of other tables read Minimum then Maximum (such as the tables in S30.08 and in S30.20) and several sections in the balance of the revised Code refer to minimum and maximum in that order, such as subsection 1.101(6) and paragraphs 1.102(1)(b), 1.102(3)(b), 1.109(1)(b) and 1.166(1)(f). NZFGC opposes this reversal of the minimum and maximum columns not only on consistency grounds but also because it is inconsistent with international norms.

These substances are now referred to as nutritive substances as a result of the 'basic concept—used as a nutritive substance'.

S30.05 Infant formula products—L-amino acids that may be present in infant formula and follow-on formula

This section contains the table to clause 22 in Standard 2.9.1. There is a single change to the value of one substance, 'Histidine' in the table. In the current Code the minimum amount per 100kJ is 10mg while in S30.05 it is presented as 12 mg. This difference is the result of a change made to the Code in May 2013 following a final assessment of Application A1074 – Minimum L-histidine and will need to be reflected in the revised Code in due course.

S30.06 Permitted forms of vitamins, minerals and electrolytes in infant formula products, food for infants and food for special medical purposes

This section contains the table that is Schedule 1 to Standard 2.9.1. The changes are:

- 'Carotenoid Forms' to 'Carotene forms'
- Biotin and its permitted form, d-Biotin, has been omitted, and

- a form of Selenium, 'sodium selenate', has been added possibly correcting an error in Schedule 1 which lists the form 'sodium selenite' twice.

Biotin needs to be added to the table in S30.06. Reference to 'Carotene forms' is limited to alpha and beta forms and does not represent a group and is therefore the incorrect form to use. NZFGC does not support this change. 'Carotenoid forms' is the correct technical term to use: it represents a group and is the internationally accepted term for the group.

S30.07 Infant formula products—limits on fats that may be present in infant formula and follow-on formula

This section contains the table to clause 23 in Standard 2.9.1. There is no change in the values or the substances listed. The key change has been to delete the minimum and maximum % of fatty acids columns and to replace these two columns with a single column that refers to 'no less than x% total fatty acids' or 'no more than x% total fatty acids' as the case may be. NZFGC does not support this change on the basis that it makes the table more complex than it needs to be. Reverting to the two columns of the table to clause 23 would continue the clarity provided by that table.

S30.08 Required vitamins, minerals and electrolytes in infant formula and follow-on formula

This section contains the table to subclause 24(1) in Standard 2.9.1. There are no changes to the text in the table.

S30.09 Guidelines for infant formula products

Minor revisions are made to the Guidelines of a grammatical nature or to cross references. The tables have been given headings. NZFGC notes that a decimal place has been deleted from some numbers. The inclusion of a decimal place reflects an analytical rationale and the format should therefore reflect international norms, not legal consistency. The values should therefore revert to those currently used.

Subsection S30.09(3) provides the form for the nutrition information panel. The subheading to this subsection reads '*Nutrition information table*' as it did in clause 24. However, the 'PANEL' has been added to the title of the table and the subheading should therefore match this and read '*Nutrition information panel*'. There are two changes to the text in the table. The first may be a printing error since it records '□g' for selenium instead of 'µg'. This needs to be corrected. The second change is to refer to 'substance used as a nutritive substance' to replace 'nutritive substance'. This has no impact on the table.

S30.10 Food for infants—claims that can be made about vitamins and minerals added to food for infants

This section contains table 1 to clause 8 in Standard 2.9.2. There are no changes to the text in the table but the entry for Niacin has an asterisk (*) alongside it. There is no explanation of the meaning of the asterisk but neither is there in Standard 2.9.2. This notation should therefore be removed. More importantly, this table, with only six entries and largely unrelated to the preceding and succeeding tables in schedules should be relocated in the body of the Code with section 2.113.

S30.11 Formulated meal replacements—vitamins and minerals that must be present in formulated meal replacements

This section contains table 1 from the schedule to Standard 2.9.4. Several maximum levels for vitamins have had a decimal place removed (niacin, vitamin B₁₂, and vitamins D and E). These are generally included to indicate the level of specificity necessary in the measurements and while NZFGC would generally support a relaxation of standards, it is important that this be done for good reasons not through omission.

S30.12 Vitamins and minerals that may be added to formulated meal replacements

This section contains table 2 from the schedule to Standard 2.9.4. In subsection S30.12(2) the abbreviation 'ESADDI' has been written as 'ESSADI'. As noted in section S30.11 above, the entry for 'inorganic copper' in column 3 has had a decimal place removed.

S30.13 Vitamins and minerals that may be added to formulated supplementary foods

This section contains the first and last two columns from table 3 in the schedule to Standard 2.9.4. As noted in section S30.11 above, several maximum levels for vitamins and minerals have had a decimal place removed (niacin, vitamin B₁₂, and vitamins D and E, iron and zinc).

S30.14 Vitamins and minerals that may be added to formulated supplementary food for young children

This section contains the first three columns from table 3 in the schedule to Standard 2.9.4. As noted in section S30.11 above, the entry for 'iron' in column 3 has had a decimal place removed. The current provision state Iron – except ferric sodium edetate for formulated supplementary foods for young children. This is not in the revision.

S30.15 Vitamins and minerals that may be added to formulated supplementary sports foods

This section contains table to paragraph 2(a) in the schedule to Standard 2.9.4. As noted in section S30.11 above, the entry for 'vitamin B₁₂' has had a decimal place removed. Also it is pleasing note that the amounts list for calcium and phosphorous of 1600mg and 1000mg respectively do not contain commas to separate the thousands from hundreds. As well, zinc 12mg is in the wrong column. This needs to be in the maximum claimed amount column.

S30.16 Additional permitted forms and intake amounts for vitamins and minerals in formulated supplementary sports foods and in formulated meal replacements

This section purports to contain the table from the schedule to Standard 2.9.4. However there are several changes:

- the amount for biotin has reduced from 100µg to 30µg
- the forms of Pantothenic acid have reduced from 3 to 1 and the amount has reduced from 7mg to 5µg
- the forms of calcium have reduced from 3 to 1
- the amount for manganese has lost a decimal place
- phosphorus, potassium phosphate dibasic, sodium phosphate dibasic have been omitted
- selenium has been totally omitted.

It is not clear what the basis for these changes is.

S30.17 Amino acids that may be added to formulated supplementary sports food

This section contains the table to subclause 2(b) in Standard 2.9.4. The revision has no impact and it is pleasing to see no commas in the amounts recorded in column 2.

S30.18 Substances that may be used as nutritive substances in formulated supplementary sports food

This section contains the table to subclause 2(c) in Standard 2.9.4. The revision has no impact. This is a small table of only 6 entries but because of its link with preceding tables, NZFGC has no issue with it remaining in the Schedules.

S30.19 Substances that may be added to food for special medical purposes

This section contains the table that is Schedule 1 to Standard 2.9.5. It is noted that the entry in column 2 for L-carnitine has now been aligned as a form for carnitine and that choline and subsequent entries in column 2 have been correctly aligned.

S30.20 Quantities of nutrients for food for special medical purposes represented as a sole source of nutrition

This section contains the table that is Schedule 2 to Standard 2.9.5. It has retained the superscript notation from that table but the revision provides no note about the meaning of the superscript notations. In Standard 2.9.5 the notes are that:

“¹, ², and ⁴ These numbers refer to the corresponding numbers in the footnotes in Schedule 1 in Standard 1.1.1.

³ The higher amount applies only to products intended for children aged one to ten years.”