

Review into the *Food Standards Australia New Zealand Act 1991*

TERMS OF REFERENCE

1. The review will include a comprehensive examination of the effectiveness of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act) and the associated operations and responsibilities of Food Standards Australia New Zealand (FSANZ). It will include consideration of the economic efficiency of regulation, recognising the importance of the food industry to regional communities and the broader economies of both Australia and New Zealand. The review will include findings and recommendations for any reforms. The final report from the review will be provided to the Australian minister responsible for FSANZ, who will consider the report/review in partnership with the New Zealand Minister for Food Safety and consult with state and territory food ministers through the Australia and New Zealand Ministerial Forum on Food Regulation (the Forum).

Scope

2. The review will include the FSANZ Act and FSANZ operations, with a focus on areas identified as being inconsistent with best practice regulation and standard setting. The review should consider and make recommendations on the appropriateness of FSANZ Act legislation, in particular:
 - a. The FSANZ assessment process to ensure it is fit for purpose and outcomes based and promotes an efficient and internationally competitive food industry. This work should include:
 - ensuring any proposed changes to the regulatory system imposes the least burden on business to achieve the stated objectives of the regulation and specific consideration is given to the impact on small businesses; and
 - revision of the interface between the regulator and business, i.e. the digital or paper systems used to support the assessment.
 - b. An optimal operating model for FSANZ, the roles and functions of FSANZ including consideration of FSANZ undertaking a greater role as a regulator.
 - c. Cost recovery models for industry initiated work.
 - d. Decision making processes, including the role of the CEO, FSANZ Board and Ministers.
 - e. Best practice board appointment processes.
3. The review should consider and make recommendations on the operational functions of FSANZ, in particular:
 - a. The timeliness of work undertaken and relative priority of the FSANZ work plan including consideration of the risk proportionality and international harmonisation of risk assessments and standards.
 - b. The operation and effectiveness of the Food-Medicine Interface, including the effectiveness of regulation around nutrition supplements.
 - c. FSANZ as an independent agency and appropriate resourcing.

4. The review should also consider what wider role FSANZ as a joint body could take across Australia and New Zealand and in Australia only, by considering issues and making recommendations in relation to FSANZ's potential role including (but not limited to):
 - a. Enforcement of food standards – noting concerns around a lack of consistent implementation of standards across jurisdictions.
 - b. Emerging issues – such as food fraud and food crime.
 - c. Food safety – noting consumers' and industry's desire for one 'Face of Food Safety' that produces a unified national approach to raising awareness and responding to food safety issues (Australian context only).
 - d. Food safety research – including facilitating collaboration on research relating to food safety.
 - e. Communication of food standards to industry and consumers – including a greater role in providing advice on interpretation of food standards.
 - f. Undertaking education campaigns – in alignment with Priority 1 and Priority 2 of the Food Regulation system.

The review will provide an indication of the potential role of FSANZ in both Australia and New Zealand and relative impact of the recommendations for Australia and New Zealand.

Out of scope

5. The review will not include other food legislation and agreements, such as the Food Regulation Agreement, the Food Treaty, or the Model Food Act. However, should issues with these instruments be identified, they may be considered separately.

Process

Stakeholder engagement

6. Wide consultation will be undertaken as part of the review, including with government, consumer, public health, and industry stakeholders along the supply chain.

Legislative amendments

7. In accordance with Article 4(4) of the Treaty, no amendments to the FSANZ Act will be introduced without effective consultation with New Zealand.

Principles

Alignment with Priority 3 of the food regulation system

8. The review will complement the objectives of Priority 3 of the food regulation system, as agreed by the Forum in April 2017: *to maintain a strong, robust, and agile food regulation system*. The central focus of this work is applying best practice regulatory approaches, with the objectives of improving timeliness, ensuring the food regulation system is responsive, and provides a unified voice regarding food safety and applying processes proportional to risk. Under the Priority 3 program of work, the Food Regulation Standing Committee is concurrently considering wider reforms to the food regulatory system (including the Food Regulation Agreement and the Model Food Act). This review will aim to align with and complement the broader Priority 3 work.

Management

9. The Australian Government Department of Health in consultation with the Australian Government Department of Agriculture, Water and the Environment will manage the review through an independent consultant, in partnership with the New Zealand Government and in consultation with FSANZ, and Australian states and territories.