

Public Consultation - Review of the Food Standards Australia New Zealand Act 1991 - draft Regulatory Impact Statement

Overview

Introduction

In **November 2019** <<https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/forum-communique-2019-November>> the **Australia and New Zealand Ministerial Forum on Food Regulation** <<https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/Forum>> endorsed an ambitious plan to reform the Bi-national Food Regulation System to ensure it remains strong, robust and agile into the future. A key element underpinning the reform agenda is the review of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act).

The FSANZ Act Review commenced in July 2020, and is a comprehensive examination of the effectiveness of the FSANZ Act and the associated operations and responsibilities of Food Standards Australia New Zealand (FSANZ). The FSANZ Act is Australian legislation and underpins the Australia New Zealand Joint Food Regulatory System within which New Zealand participates as a partner under the bilateral Food Treaty.

Extensive stakeholder consultation has been undertaken to date, including public consultation on a Scoping Paper across October and November 2020 and targeted workshops with key government, industry, public health and consumer bodies. This consultation has informed the development of a draft Regulatory Impact Statement which presents three reform options for the FSANZ Act.

Option 1 is the status quo (proposes no legislative changes to the FSANZ Act), while Option 2 and 3 present increasingly ambitious suites of measures that could be taken to amend the FSANZ Act.

Stakeholders are being asked for their views on the draft Regulatory Impact Statement and to provide feedback to characterise the impact of the proposed options. It should be noted that the options are presented without prejudice and do not represent agreed positions of any government in Australia and New Zealand. The data, commentary and information received through this consultation will be analysed to inform a final Regulatory Impact Statement, which will be used to inform any amendments to the FSANZ Act.

The ambitious plan to reform the Bi-national Food Regulation System also consists of three other projects (see 'Modernisation of the Food Regulation System' below). These projects are being

progressed in parallel to develop a new, best practice regulatory, legislative and operational basis for the system. As part of the Review of the Food Regulation Agreement project, draft Aspirations for the Food Regulation System have been developed and are available under 'Related' below. As part of this consultation, stakeholders are also being asked to consider how the reform options for the FSANZ Act align with the draft Aspirations for the Food Regulatory System.

PLEASE NOTE: The draft Regulatory Impact Statement and draft Aspirations for the Food Regulatory System can be found at the bottom of the page under the 'Related' heading. Please ensure you have read these documents in full before you provide feedback.

Modernisation of the Food Regulation System

In addition to the FSANZ Act Review, three other projects are being progressed under the ambitious reform agenda of the Food Regulation System: the Review of the Food Regulation Agreement, the Jurisdictional Consistency Project, and the Review of the Operations of the Food Regulation System. Further information about each of these projects can be found on the **Food Regulation website** <<https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/Modernisation-of-the-food-regulation-system>> .

These projects are being progressed in parallel to develop a new, best practice regulatory, legislative and operational basis for the system. Given that the reform agenda is being progressed through interconnected projects, the submissions and findings of each consultation used to inform each project where appropriate, and will be shared amongst the government organisations and consultations working on these projects. All consultation will be notified on the **Food Regulation website** <<https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/consultations>> and stakeholders who have subscribed for updates will also receive an email notification.

Preview consultation

You can download a preview of this consultation under the 'Related documents' link at the bottom of this page.

Responding to the consultation

Responses to the consultation questions are to be submitted through this online consultation platform. It is not necessary to complete the survey in one sitting. You can save your answers and come back later.

It is acknowledged that the FSANZ Act Review draft Regulatory Impact Statement consultation is open at the same time as the consultation on Menu Labelling. We recognise the workload for stakeholders to respond to both consultations and appreciate your contribution. Please note the menu

labelling consultation will be open for an additional two weeks after the FSANZ Act Review consultation closes to allow time for stakeholders to respond to both consultations if desired.

Introductory text

You may answer as many consultation questions as you like. It is not necessary to respond to all of the questions.

About you

What is your name?

Name

What is your email address?

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

Email (Required)

Please tick this box if you would like your response to be confidential

Tick the box if you would like your response to this consultation to be confidential

What sector do you represent?

Drop down list about which sector the respondent represents (Required)

Please select only one item

- General public Public health Food industry Government
 Consumer organisation Other (please specify) Prefer not to say

If 'other' sector selected, please specify in the text box

What is your organisation?

Organisation

Please select all that apply

Not applicable- Responding as an individual

Which country are you responding from?

Drop down list about which country the respondent is based (Required)

Please select only one item

Australia New Zealand Trans-Tasman organisation Other

Prefer not to say

If you selected 'other' please specify country

An opportunity to submit any other information about your organisation you would like to provide.

Policy Problems

Please read section 3 'The problems to solve' (pages 19 - 46) of the draft Regulatory Impact Statement before answering the questions below.

1 Aside from the three key Policy Problems identified in this RIS, are there other key Policy Problems that should be considered as part of this regulatory impact analysis? If so, what are they and do they manifest differently in Australia and New Zealand?

2 What examples or issues are you aware of in the food regulatory system regarding food sustainability?

3 What examples or issues are you aware of in the food regulatory system regarding recognition of Indigenous culture and food expertise?

Option 1: Retain the status quo

Please read section 5 'Options to address the Policy Problems' (pages 49 to 68) and section 6.1 'Impacts of Option 1: Retain the status quo' (pages 69 to 74) of the draft Regulatory Impact Statement before answering the questions below.

4 Would the impact of pursuing Option 1 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

5 What are the key risks borne by different stakeholder groups for this option? What is the likelihood of these risks, and what would be the magnitude of consequence if they occur?

6 Do you have any data on hand that will help to quantify the cost of delays when bringing products to market through the current process? If so, please provide these data.

Please attach a copy of any documents you wish to include to this printout.

Please write any comments about these data in the box below.

7 Are there other costs and benefits (qualitative or quantitative) that should be considered as part of this impact analysis? If so, who would bear these costs and benefits?

8 Are you aware of any data that may assist in quantifying the magnitude of these costs and benefits? If so, please provide these data.

Please attach a copy of any documents you wish to include to this printout.

Please provide any comments about these data in the box below.

9 What risks are borne by your sector as a whole and by different stakeholders under Option 1 (i.e., retain the status quo)?

10 (Note: this question is for jurisdictional regulators) What resources (FTE) do you dedicate to monitoring and enforcement of food standards? What are the costs associated with these arrangements?

Option 2: Modernise the Act to make it agile, resilient and fit-for-purpose

Please read section 5 'Options to address the Policy Problems' (pages 49 to 68) and section 6.2 'Impacts of Option 2: Modernise the Act to make it agile, resilient and fit-for-purpose' (pages 74 to 103) of the draft Regulatory Impact Statement before answering the questions below.

11 Would the impact of pursuing Option 2, Component 1 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

12 If FSANZ's objectives were broadened to include sustainability, how should sustainability be defined? For example, do you support a limited definition of sustainability (i.e., environmental impacts) or a broad definition of sustainability (i.e., environmental, health, economic and social impacts).

13 What economic opportunities might arise for Australian and New Zealand industry from a greater focus on sustainability?

14 How can FSANZ's activities better recognise indigenous culture and food expertise? Is this the right framing? What differences between the Australian context and the New Zealand context are important to consider? What changes are required to the FSANZ Act to enable this?

15 What economic opportunities might arise for Indigenous businesses from bringing traditional goods to the broader market?

16 Would the impact of pursuing Option 2, Component 2 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

17 Do you think this Component (Option 2, Component 2) should also include the ability for the Food Ministers' Meeting to delegate to the FSANZ Board for decision-making? If so, for what decisions should this delegation include?

18 What types of issues do you think can be appropriately dealt with in codes of practices or guidelines?

19 Can you provide data to quantify the administrative burden on industry associated with compiling the required evidence base to support a comprehensive risk assessment by FSANZ?

Please attach a copy of any documents you wish to include to this printout.

Please provide any comments about these data in the box below.

20 Are you aware of any data to demonstrate the potential savings for industry if FSANZ had the statutory ability to recognise and adopt international risk assessments?

21 Would the impact of pursuing Option 2, Component 3 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

22 What are examples of novel food products and ingredients and new technologies used in the production and testing of food products that could be appropriately and safely introduced using regulatory sandboxes?

23 Would the impact of pursuing Option 2, Component 4 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

24 Should a function for FSANZ's to collect, consolidate and communicate food safety data be legislated?

25 Would the impact of pursuing Option 2, Component 5 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

26 Would stakeholders (including universities, expert food safety bodies or industry) be willing to pay for data or data-linkages services from FSANZ?

27 Would the impact of pursuing Option 2, Component 6 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

28 What are the key risks borne by different stakeholder groups for this option? What is the likelihood of these risks, and what would be the magnitude of consequence if they occur?

29 Are there other costs and benefits (qualitative or quantitative) that should be measured in relation to Option 2? If so, who would bear these costs and benefits?

30 Are you aware of any data that may assist in quantifying the magnitude of these costs and benefits? If so, please provide these data.

Please attach a copy of any documents you wish to include to this printout.

Please provide any comments about these data in the box below.

31 Should the Act provide for more of its work with industry to be offset through cost recovery mechanisms? For example, should FSANZ seek to broaden the types of applications for which it charges fees; should the provision of interpretative advice attract fees; or are there other activities for which FSANZ should cost recover?

32 What would be the impact on industry (especially small to medium businesses) or consumers of FSANZ cost-recovering for a broader range of activities?

33 How often do you currently engage with the food regulation system through making applications to change food standards?

34 What are the most significant barriers that you or your organisation faces when trying to engage with the food regulation system?

35 Would you be more likely to engage with the food regulation system through the new pathways proposed in this regulatory impact statement? If so, which pathways would you be most likely to use and why?

Option 3: Build on FSANZ's role to reinforce the bi-national nature of the joint food standards system

Please read section 5 'Options to address the Policy Problems' (pages 49 to 68) and section 6.3 'Impacts of Option 3: Build on FSANZ's role to reinforce the bi-national nature of the joint food standards system' (pages 104 to 120) of the draft Regulatory Impact Statement before answering the questions below.

36 Would the impact of pursuing Option 3, Component 1 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

37 Are you aware of any quantified costs that food businesses have borne as a result of a food incident or recall?

38 Is FSANZ coordinating food recalls /incident response a function that would be equally valuable for Australia and New Zealand?

39 Would the impact of pursuing Option 3, Component 2 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

40 Are you aware of any data to demonstrate the current impost on industry from interjurisdictional inconsistencies in the enforcement of standards?

Please attach a copy of any documents you wish to include to this printout.

Please provide any comments about these data in the box below.

41 Is the notion of FSANZ taking on enforcement activities equally valuable for both Australia and New Zealand? Why / why not?

42 Would the impact of pursuing Option 3, Component 3 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please

43 Are you able to provide detail on the costs or resources each jurisdiction invests into enforcement activities?

44 Would the impact of pursuing Option 3, Component 4 represent a positive, negative or neutral outcome for your sector?

Please select from the dropdown options. (Required)

Please select only one item

Positive Negative Neutral

Please provide any comments in the box below.

45 Are there other costs and benefits (qualitative or quantitative) that should be measured in relation to Option 3? If so, who would bear these costs and benefits?

46 What activities or functions within Option 3 do you think could be supported through cost recovery mechanisms?

Overarching views on the RIS

47 Do you think the current options presented in the draft RIS represent the full spectrum of policy approaches that governments might consider?

48 Which components of each reform option do you consider to be your sector's highest priorities? Note: Option 2 consists of six components, and Option 3 consists of four components building on Option 2. See Section 5 of the draft RIS for details of each component.

Alignment with draft Aspirations for the Food Regulatory System

Please read the draft Regulatory Impact Statement and the draft Aspirations for the Food Regulatory System before answering the questions below.

The FSANZ Act Review is an element of the ambitious plan to reform the Bi-national Food Regulation System, which also consists of three other projects (see the **Food Regulation website** <<https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/Modernisation-of-the-food-regulation-system>> for further information). These projects are being progressed in parallel to develop a new, best practice regulatory, legislative and operational basis for the system.

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49 Do you think that the reform options presented in the draft Regulatory Impact Statement align with the draft Aspirations for the Food Regulatory System? Which option and why / why not?

Please provide your response in the box. (Required)