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# Public Consultation- Scoping Paper on the Review of the Food Standards Australia New Zealand Act 1991

## 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 (Forum)**

<<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 will include a comprehensive examination of the effectiveness of the FSANZ Act and the associated operations and responsibilities of Food Standards Australia New Zealand (FSANZ).

Stakeholders are being asked for their views on the Scoping Paper, which outlines key issues identified with the FSANZ Act and opportunities for legislative and operational reform. Stakeholders will be engaged for their perspectives on the issues and associated opportunities and the impact that these could have.

**PLEASE NOTE:** The Scoping Paper can be found at the bottom of the page under the 'Related' heading. Please ensure you have read the paper in full before you provide feedback.

In addition to the FSANZ Act Review, three other projects are being progressed under the ambitious reform agenda of the Food Regulation System:

|  |  |                   |   |
|--|--|-------------------|---|
| <b>Review of the Food Regulation Agreement</b> | <p><b>Stage 1:</b> describe a vision for the future of the food regulatory system to provide strategic direction for reform and feed into Stage 2.</p> <p><b>Stage 2:</b> review the Food Regulation Agreement to create a new foundational document to underpin the food regulatory system.</p> |                   |   |
| <b>Jurisdictional consistency</b>              | Identify the key areas of inconsistency in food regulatory approaches based on the impacts on industry and government.   | <b>Operations</b> | Develop and implement new operational processes to support the system's governance. |
| <b>FSANZ Act Review</b>                        | Review the effectiveness of the FSANZ Act and the operations and responsibilities of FSANZ.  |                   |   |

These projects are being progressed in parallel to develop a new, best practice regulatory, legislative and operational basis for the system. There will be several opportunities for stakeholders to provide input to this reform agenda throughout its development and implementation. Given that the reform agenda is being progressed through interconnected projects, the submissions and findings of each consultation will be used to inform each project where appropriate. Submissions will be shared amongst the Government organisations and consultants who are 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.

## 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.

An opportunity to provide any other information about your organisation.

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

If you would like to upload a file about your organisation or an executive summary, please do so here. Please do not submit a document with answers to the consultation questions, provide your answers to the consultation questions on the online platform. Upload file here.

## Discussion questions - Objectives

**Please read section 2 Objectives (pages 12 to 18) of the scoping paper before answering the questions below.**

An opportunity to provide feedback on the objectives of the Act and FSANZ's objectives in developing or reviewing food regulatory measures.

**1a** Is there still a case for regulating food?

**1b** What market failure(s) should governments seek to address through regulation of food?

**2** Are there other significant focus areas that should be considered as part of the Review?

**3** To what degree are the current legislated objectives an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**4a** What would be the impact of implementing "Reform idea 1 – Define 'public health' and 'safety' in legislation to affirm the inclusion of long-term health and nutrition as a core objective", and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive    Negative    Otherwise

and provide details about the impacts (positive and negative) that this would have

**4b** What would be the impact of implementing "Reform idea 2 - Recognise trade as a core goal and reframe consumer choice as a factor to which FSANZ 'must have regard' ", and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**4c** What would be the impact of implementing of implementing "Reform idea 3 – Establish criteria in the Act that the Forum must meet to request a review of a draft regulatory measure", and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**5** Are there other potential issues or solutions relating to legislated objectives?

## Discussion questions - Functions

**Please read section 3 Functions (pages 19 to 23) of the scoping paper before answering the questions below.**

An opportunity to provide feedback on FSANZ's current statutory functions and the potential for FSANZ to undertake additional roles in Australia, New Zealand, or both.

**6** To what degree are FSANZ's functions (as currently stated in the Act) an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?



**7a** What would be the impact of implementing "Reform idea 4 - Amend the Act to better reflect the functions FSANZ currently delivers, particularly as they relate to supporting long-term health and nutrition" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**7b** What would be the impact of implementing "Reform idea 5 – Amend s 13 of the Act to reflect a broader range of functions that FSANZ could deliver now and in the future" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**8** Are there other potential solutions relating to FSANZ's statutory functions?

### Discussion questions - Legislative processes and decision-making arrangements

**Please read section 4 Legislative processes and decision-making arrangements (pages 24 to 36) of the scoping paper before answering the questions below.**

An opportunity to provide feedback on statutory application and proposal processes and decision-making arrangements for changes to food standards.

**9** To what degree are the current processes for strategically reviewing standards an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**10a** What would be the impact of implementing "Reform idea 6 – Remove exemption of food standards from sunseting arrangements" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**10b** What would be the impact of implementing "Reform idea 7 – Resource FSANZ to undertake regular, more holistic reviews of food standards" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**11** Are there other potential solutions relating to the timing of reviews of food standards?

**12** To what degree are the current statutory application and proposal processes an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**13a** What would be the impact of implementing "Reform idea 8 – Reframe legislation to support more agile, risk-based processes" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**13b** What would be the impact of implementing "Reform idea 9 – Redefine the decision-making arrangements to support timelier and more efficient sign-off of regulatory measures" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**14** Are there other potential solutions relating to streamlining current legislative process to develop or vary regulatory measures?

**15** To what degree is the current approach to using only applications and proposals to develop or vary food standards an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**16a** What would be the impact of implementing "Reform idea 10 – Provide for FSANZ to adopt or accept risk assessments from overseas jurisdictions" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**16b** What would be the impact of implementing "Reform idea 11 – Enable FSANZ to adopt international standards" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**16c** What would be the impact of implementing "Reform idea 12 – Create industry-led pathways to expedite applications and bring new products to market" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive    Negative    Otherwise

and provide details about the impacts (positive and negative) that this would have

**17** Are there other potential solutions relating to additional pathways to develop or vary food regulatory measures?

## Discussion questions - Partnerships

**Please read section 5 Partnerships (pages 37 to 48) of the scoping paper before answering the questions below.**

An opportunity to provide feedback on FSANZ's relationships within and outside the food regulatory system, including policy development, enforcement and the food-medicine interface.



**18** To what degree is the current alignment between policy development and standards setting an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**19a** What would be the impact of implementing "Reform idea 13 – Facilitate joint agenda setting between FSANZ and the Forum" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive    Negative    Otherwise

and provide details about the impacts (positive and negative) that this would have

**19b** What would be the impact of implementing "Reform idea 14 – Amend statutory timeframes to support more strategic prioritisation of work" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive    Negative    Otherwise

and provide details about the impacts (positive and negative) that this would have

**20** Are there other potential solutions relating to agreeing system priorities between FSANZ and the Forum?

**21** To what degree does inconsistent interpretation of food standards present an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**22a** What would be the impact of implementing "Reform idea 15 – Enhance FSANZ's role in providing guidance about food standards within its current statutory remit" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive    Negative    Otherwise

and provide details about the impacts (positive and negative) that this would have

**22b** What would be the impact of implementing "Reform idea 16 – Provide for FSANZ to give binding interpretive advice on food standards" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**22c** What would be the impact of implementing "Reform idea 17 – Enhance FSANZ's regulatory role by providing limited enforcement powers" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**23** Are there other potential issues or solutions relating to interpretation of food standards?

**24a** To what degree is the food-medicine interface an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**24b** To what degree is the oversight of health claims an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**25a** What would be the impact of implementing "Reform idea 18 – Focus efforts on improving the food-medicine interface through regulatory practice" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**25b** What would be the impact of implementing "Reform idea 19 – Broaden the role of FSANZ to assess general level health claims" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**25c** What would be the impact of implementing "Reform idea 20 – Align definitions and powers in legislation between therapeutic goods and foods" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**26** Are there other potential solutions relating to improving the food-medicine interface?

## Discussion questions - Operations

**Please read section 6 Operations (pages 49 to 54) of the scoping paper before answering the questions below.**

An opportunity to provide feedback on FSANZ's governance, resource allocation and funding, including scope for cost recovery.

**27** To what degree are FSANZ's governance arrangements an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**28a** What would be the impact of implementing "Reform idea 21 – Streamline Board appointments and nominations" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive    Negative    Otherwise

and provide details about the impacts (positive and negative) that this would have



**28b** What would be the impact of implementing "Reform idea 22 – Establish minimum term length for Board members" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**28c** What would be the impact of implementing "Reform idea 23 – Reduce Board size" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**29** Are there other potential solutions relating to FSANZ's governance arrangements?

**30** To what degree does FSANZ's approach to setting its own workplan and resourcing its work present an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

**31a** What would be the impact of implementing "Reform idea 24 – Expand scope of applications for which FSANZ can recover costs" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**31b** What would be the impact of implementing "Reform idea 25 – Provide for limited expansion of scope of activities for which FSANZ can recover costs" and how could the outcome best be achieved?

Please advise the net impact of implementing the reform idea above

*Please select only one item*

Positive  Negative  Otherwise

and provide details about the impacts (positive and negative) that this would have

**32** Are there other potential solutions relating to FSANZ's operations?**Discussion questions - Key reflections**

An opportunity to provide key reflections on the scoping paper.

**33** What are the top 2-3 most pressing issues to resolve through change to the Act and associated operations and responsibilities of FSANZ?**34** Are there key issues or challenges related to FSANZ and the Act that are not represented in this scoping paper?

**35** What other reform ideas should be considered to address the issues identified in the paper, assuming no resource constraints?