

## Australia New Zealand Food Standards Code — Amendment No. 169

The following instruments are separate instruments in the Federal Register of Legislation and are known collectively in the Food Standards Gazette as Amendment No. 169.

### Food Standards (Proposal P1042 - Low THC Hemp Seeds as Food) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of this variation.

Dated 3 May 2017.

Standards Management Officer, Delegate of the Board of Food Standards Australia New Zealand

#### Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC 111 on 11 May 2017. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

### 1 Name

This instrument is the *Food Standards (Proposal P1042 - Low THC Hemp Seeds as Food) Variation*.

### 2 Variation to a standard in the *Australia New Zealand Food Standards Code*

The Schedule varies Standards in the *Australia New Zealand Food Standards Code*.

### 3 Commencement

The variation commences on a date 6 months after the date of gazettal.

#### Schedule

[1] **Standard 1.2.7** is varied by inserting after section 1.2.7—4

**Note** Section 1.4.4—7 proscribes health claims and nutrition content claims in relation to cannabidiol in hemp food products.

[2] **Standard 1.4.4** is varied by

[2.1] omitting the Note to section 1.4.4—2 and substituting

**Note 1** In this Code (see sections 1.1.2—2 and 1.1.2—3):

**claim** means an express or implied statement, representation, design or information in relation to a food or a property of food which is not mandatory in this Code

**coca bush** means:

- (a) *Eurythroxylum coca*; or
- (b) a substance derived from *Eurythroxylum coca*.

**health claim** means a claim which states, suggests or implies that a food or a property of food has, or may have, a health effect

**health effect** means an effect on the human body, including an effect on one or more of the following:

- (a) a biochemical process or outcome;
- (b) a physiological process or outcome;
- (c) a functional process or outcome;
- (d) growth and development;
- (e) physical performance;
- (f) mental performance;
- (g) a disease, disorder or condition.

**label**, in relation to a food being sold, means any tag, brand, mark or statement in writing or any representation or design or descriptive matter that:

- (a) is attached to the food or is a part of or attached to its packaging; or
- (b) accompanies and is provided to the purchaser with the food; or
- (c) is displayed in connection with the food when it is sold.

**prohibited plant or fungus** means:

- (a) a plant or fungus listed in Schedule 23; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

**property of food** means a component, ingredient, constituent or other feature of food.

**restricted plant or fungus** means:

- (a) a plant or fungus listed in Schedule 24; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

**Note 2** Section 1.1.2—9 (Definition of **nutrition content claim**) provides as follows:

(1) In this Code:

**nutrition content claim** means a claim that:

- (a) is about:
  - (i) the presence or absence of any of the following:
    - (A) a biologically active substance;
    - (B) dietary fibre;
    - (C) energy;
    - (D) minerals;
    - (E) potassium;
    - (F) protein;
    - (G) carbohydrate;
    - (H) fat;
    - (I) the components of any one of protein, carbohydrate or fat;
    - (J) salt;
    - (K) sodium;
    - (L) vitamins; or
  - (ii) glycaemic index or glycaemic load; and
- (b) does not refer to the presence or absence of alcohol; and
- (c) is not a health claim.

**Note** See also subsections 1.1.2—9(2) to (4), 2.6.2—5(4) and 2.10.2—8(3).

**Note 3** Standard 1.2.7 prescribes requirements for making health claims and nutrition content claims.

[2.2] inserting after section 1.4.4—5

#### **1.4.4—6 Exception relating to *Cannabis sativa* seeds and seed products**

(1) *Cannabis sativa* seeds may be a food for sale or used as an ingredient in a food for sale if:

- (a) the seeds:
  - (i) are seeds of low THC *Cannabis sativa*; and
  - (ii) contain not more than 5 mg/kg of total THC; and
  - (iii) if the food is for retail sale - are non-viable and hulled; and
- (b) the only cannabinoids in or on the seeds are naturally present.

(2) Subject to subsection (3), all or any of the following seed products may be a food for sale or used as an ingredient in a food for sale:

- (a) oil extracted from seeds of low THC *Cannabis sativa* if the oil contains not more than 10 mg/kg of total THC;
- (b) a beverage derived from seeds of low THC *Cannabis sativa* if the beverage contains not more than 0.2 mg/kg of total THC;
- (c) any other product that is extracted or derived from seeds of low THC *Cannabis sativa* and contains not more than 5 mg/kg of total THC.

(3) The only cannabinoids in the product must be those that were naturally present in or on the seeds from which the product was extracted or derived.

(4) In subsection (2):

**seeds of low THC Cannabis sativa** includes viable and unhulled seeds.

(5) In this section:

**hulled seeds** means seeds from which the outer coat or hull of seeds has been removed.

**low THC Cannabis sativa** has the meaning given by subsection (6).

**non-viable seeds** means seeds that are not able to germinate.

**seeds** includes a part of a seed.

**total THC** means the total amount of delta 9-tetrahydrocannabinol and delta 9-tetrahydrocannabinolic acid.

(6) *Cannabis sativa* is low THC *Cannabis sativa* if the leaves and flowering heads of the *Cannabis sativa* do not contain more than 1% delta 9-tetrahydrocannabinol.

#### **1.4.4—7 Restriction on claims and representations about foods that are or which contain hemp food products**

(1) This section applies to a food for sale that consists of, or has as an ingredient, a hemp food product.

(2) The food for sale must not be labelled or otherwise presented for sale in a form which expressly or by implication suggests that the product has a psychoactive effect.

(3) The label for the food for sale must not include:

(a) a nutrition content claim about cannabidiol; or

(b) a \*health claim about cannabidiol; or

(c) an image or representation of any part of the *Cannabis sativa* plant (including the leaf of that plant) other than the seed; or

(d) the words 'cannabis', 'marijuana' or words of similar meaning.

(4) The label for the food for sale may include the word 'hemp'.

(5) In this section:

**Hemp food product** means *Cannabis sativa* seeds and/or a seed product that are permitted by section 1.4.4—6 to be a food for sale or used as an ingredient in a food for sale.

**Psychoactive effect** means:

(a) stimulation or depression of a person's central nervous system, resulting in hallucinations or in a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood; or

(b) causing a state of dependence, including physical or psychological addiction.

#### **1.4.4—8 Level of cannabidiol in food for sale**

Cannabidiol must not be present in any food for sale at a level greater than 75mg/kg.