

Standard 2.6.4 - Formulated Caffeinated Beverages - Food Standards (Proposal P1025 - Code Revision) Variation—Australia New Zealand Food Standards Code - Amendment No. 154

The Board of Food Standards Australia New Zealand gives notice of the making of this standard under section 92 of the *Food Standards Australia New Zealand Act 1991*.

The Standard commences on 1 March 2016.

Dated 25 March 2015

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

Note:

This Standard will be published in the Commonwealth of Australia Gazette No. FSC 96 on 10 April 2015.

Note 1 This instrument is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). The standards together make up the *Australia New Zealand Food Standards Code*. See also section 1.1.1–3.

Note 2 The provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ). See also section 1.1.1–3.

2.6.4–1 Name

This Standard is *Australia New Zealand Food Standards Code - Standard 2.6.4 - Formulated caffeinated beverages*.

Note Commencement: This Standard commences on 1 March 2016, being the date specified as the commencement date in notices in the *Gazette* and the *New Zealand Gazette* under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth). See also section 93 of that Act.

2.6.4–2 Definitions

Note In this Code (see sections 1.1.2–3 and 1.1.2–6):

non-alcoholic beverage:

(a) means:

(i) packaged water; or

(ii) a water-based beverage, or a water-based beverage that contains other foods (other than alcoholic beverages); or

(iii) an electrolyte drink; and

(b) does not include a brewed soft drink.

formulated caffeinated beverage means a flavoured, non-alcoholic beverage, or a flavoured, non-alcoholic beverage to which other substances (for example, carbohydrates, amino acids, vitamins) have been added, that:

(a) contains caffeine; and

(b) has the purpose of enhancing mental performance.

To avoid doubt, a formulated caffeinated beverage is a water based flavoured drink for the purposes of item 14.1.3 of section S15–5, and section S18–10.

In this Standard:

listed substance means a substance listed in Column 1 of the table in section S28–2.

2.6.4–3 Composition—formulated caffeinated beverages

A formulated caffeinated beverage:

(a) must contain no less than 145 mg/L and no more than 320 mg/L of caffeine in total, from any source; and

(b) may contain a listed substance.

2.6.4–4 Prohibition on mixing formulated caffeinated beverages

A food for sale (other than a formulated caffeinated beverage) must not be a mixture of a non-alcoholic beverage and a formulated caffeinated beverage.

2.6.4–5 Labelling requirements—formulated caffeinated beverage

Required declarations

(1) For the labelling provisions, the required declarations of average quantities are a declaration of the *average

quantity, per serving size and per 100 mL, of:

- (a) caffeine, expressed in milligrams; and
- (b) each listed substance (if any) that the beverage contains, expressed in the units in Column 2 of the table to section S28—2.

Note The labelling provisions are set out in Standard 1.2.1.

(2) The declarations under subsection (1):

- (a) may be adjacent to or follow a nutrition information panel on the label; and
- (b) may be set out in the format in section S12—5; and
- (c) may not be set out in the nutrition information panel.

Required advisory statements

(3) For the labelling provisions, the required advisory statements are statements to the effect that:

- (a) the food contains caffeine; and
- (b) the food is not recommended for:
 - (i) children; or
 - (ii) pregnant or lactating women; or
 - (iii) individuals sensitive to caffeine; and
- (c) if the food contains a listed substance—no more than a one-day quantity should be consumed per day.

Note 1 The labelling provisions are set out in Standard 1.2.1.

Note 2 Subsection 1.2.1—9(7) and paragraph 1.2.1—9(8)(g) each contain a labelling requirement for formulated caffeinated beverages that are not required to bear a label.

Note 3 For a formulated caffeinated beverage, the **one-day quantity** is the maximum amount that should be consumed in a day. For each listed substance that the beverage contains, a one-day quantity will not contain more than the amount in the corresponding row of the table to section S28—2.

(4) For the advisory statement required by paragraph (3)(c), the one-day quantity may be expressed as mL, or as cans or bottles, as appropriate.

(5) For paragraph (3)(c), to determine the **one-day quantity**:

- (a) for each listed substance that the food contains, calculate the equivalent amount in accordance with the equation in subsection (6); and
- (b) select, as the **one-day quantity**, the lowest of the equivalent amounts as so calculated.

(6) For subsection (5), the equation is:

$$\text{equivalent amount} = \frac{\text{permitted amount}}{\text{concentration}} \times 1000$$

where:

permitted amount is, for a listed substance, the permitted amount identified in the table to section S28—2.

concentration is the concentration of the substance in the beverage, in mg/L.