

Warning & Advisory Declarations

User guide to Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations

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Background

In this user guide, the ‘old Code’ means Volume 1 of the *Food Standards Code* (the *Australian Food Standards Code*). The ‘new Code’ means Volume 2 of the *Food Standards Code* (the *Australia New Zealand Food Standards Code*). The ‘New Zealand regulations’ means the *New Zealand Food Regulations 1984*.

In adopting the new Code in November 2000, the Ministerial Council agreed to a two-year transition period. After this, the new Code will replace both the old Code and the New Zealand regulations.

During this two-year phase-in period, foods in Australia may comply with either the old Code or the new Code (but not a combination of these). In New Zealand, foods may comply with the old Code or the new Code or the New Zealand regulations (but not a combination of these).

After this, the old Code and New Zealand regulations will be repealed and all food sold in Australia and New Zealand will have to comply with the new Code.

The new Code will mean changes in the way manufacturers and retailers make and present food for sale.

The Australia New Zealand Food Authority (ANZFA) has developed this user guide, in consultation with Australian and New Zealand government and industry representatives, to help manufacturers and retailers interpret and apply Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations and other mandatory warning, prescribed and advisory statements in the new Code. The guide may also be used by food officers to help interpret and enforce food standards in the Code.

This user guide, unlike the standard itself, is not legally binding. If in any doubt about interpreting the standards, you should seek independent legal advice.

As well as complying with food standards requirements, you must also continue to comply with other legislation. In Australia, this legislation includes the *Trade Practices Act 1974*, the *Imported Food Control Act 1992*, and State and Territory Fair Trading Acts and Food Acts. In New Zealand, this legislation includes the *Food Act 1981* and *Fair Trading Act 1986*.

Purpose

This user guide is intended to help retailers, manufacturers and other users to interpret and apply Standard 1.2.3 and other standards that require mandatory prescribed, warning, and advisory statements and declarations. The guide explains which foods must carry these statements and declarations.

What is the difference between mandatory prescribed statements, warning statements, advisory statements and declarations?

For reasons of health and safety, the new Code requires that certain information be provided on labels. This information may be in the form of a prescribed statement (which includes warning statements), an advisory statement or a specific declaration depending on the degree of risk to health and safety of consumers.

Mandatory prescribed statements: A prescribed statement is a specific labelling statement that must be expressed on a label in the exact words and in the format specified in the Code. These statements must always be written on the food label or, where foods are exempt from bearing a label, on the food package or in connection with the display of the food. There are two types of prescribed statements:

- warning statements, and
- statements on foods produced using gene technology.

Mandatory advisory statements: The new Code requires mandatory advisory statements on labels of certain foods or when certain substances are present in foods. The specific wording of advisory statements is not prescribed. Where the food is exempt from bearing a label, the statement must be displayed on or in connection with the food or provided verbally or in writing.

Mandatory declarations of certain substances in food: Certain food ingredients or components, food additives and processing aids must be declared on labels. The inclusion of a substance in the list of ingredients would normally fulfil the declaration requirement. Where the food is exempt from bearing a label, the declaration must be displayed on or in connection with the food or provided verbally or in writing upon the request of the consumer.

Mandatory prescribed statements

Which foods must have warning statements?

Warning statements are prescribed statements required on labels. The exact wording and format required is set out in the Code.

Warning statements must be a minimum print size of 3 millimetres (mm) and in the case of small packages, a minimum print size of 1.5 mm. A small package is defined as a package with a surface area of less than 100 cm².

Clause 3 of Standard 1.2.9 – Legibility Requirements sets out the legibility requirements for warning statements.

The following table sets out the foods and the written warning statements that must accompany them.

| Food | Reference in new Code | Wording of mandatory warning statement |
|-----------------------------------|---|--|
| Condensed, modified and skim milk | Subclause 3(1), Standard 1.1.3 – Transitional and Temporary Standards | <i>In Australia, warning statements must comply with Standards H1, H3 and H4 of the old Code.*</i> |

| Food | Reference in new Code | Wording of mandatory warning statement |
|--|--|--|
| Skim and non-fat milk, reduced-fat milk, evaporated skim milk, skimmed sweetened condensed milk and skim milk powder | Subclauses 3(2)–(6), Standard 1.1.3 – Transitional and Temporary Standards | <i>In New Zealand, warning statements must comply with the New Zealand regulations.*</i> |
| Royal jelly or food containing royal jelly | Clause 4, Standard 1.1.3 – Transitional and Temporary Standards | <i>ANZFA is currently considering mandatory warning statements for the new Code in relation to royal jelly. Until this issue is resolved, the same requirements apply that existed in Australia and New Zealand before the new Code, i.e. Standard K2 of the old Code and the New Zealand mandatory food standard in relation to royal jelly.*</i> |
| Kava | Clause 3, Standard 2.6.3 – Kava | <ul style="list-style-type: none"> • ‘Use in moderation’ • ‘May cause drowsiness’ • ‘The sale and distribution of kava in Australia is subject to the National Code of Kava Management’. |
| Infant formula | Standard 2.9.1 – Infant Formula Products | <i>Standard 2.9.1 is temporarily reserved and will set out any specific warning statements that apply to infant formula products. In the interim, the provisions of Standard R7 of the old Code apply.*</i> |
| Infant foods | Paragraph 5(3)(c), Standard 2.9.2 – | Where the food is recommended for infants between the ages of 4–6 months: |

| Food | Reference in new Code | Wording of mandatory warning statement |
|---------------------------------------|---|---|
| | Foods for Infants | 'Not recommended for infants under the age of 4 months'. |
| | Paragraph 6(2), Standard 2.9.2 – Foods for Infants | Where a food for infants contains more than 3 g/100 kJ protein: 'Not suitable for infants under the age of 6 months'. |
| Formulated supplementary sports foods | Subclause 3(3) Standard 2.9.4 – Formulated Supplementary Sports Foods | 'Not suitable for children under 15 years of age or pregnant women: Should only be used under medical or dietetic supervision'. |
| | Subclause 3(4) Standard 2.9.4 – Formulated Supplementary Sports Foods | If contains added phenylalanine: 'Phenylketonurics: Contains Phenylalanine'. |

*Transitional arrangement pending finalisation of statement.

Statements on food produced using gene technology

Some foods produced using gene technology also require a prescribed statement on the label that the food or ingredient is 'genetically modified'. This information must also be displayed on or in connection with the display of the food if it is sold unpackaged. Foods intended for immediate consumption that are prepared and sold from food premises and vending vehicles, e.g. restaurants, take away outlets, caterers or self-catering institutions, are not required to be labelled with this statement.

Standard 1.5.2 – Food Produced Using Gene Technology defines 'genetically modified food', 'novel DNA and/or novel protein' and 'altered characteristics' and lists labelling requirements for food produced using gene technology.

For more information on the required declarations for genetically modified foods see the user guide on labelling genetically modified food.

Mandatory advisory statements

Which foods or substances in foods must have advisory statements?

The new Code requires mandatory advisory statements on labels of certain foods or when certain substances are present in foods. Manufacturers may use their own words for statements as long as they convey the intended meaning and the statement is prominent and legible.

Standard 1.2.9 – Legibility Requirements regulates legibility requirements for food labels.

The following table sets out the foods and the advisory statements that must accompany them.

| Food or substance in food | Reference in new Code | Mandatory advisory statement |
|----------------------------------|--|--|
| Irradiated food | Clause 6, Standard 1.5.3 – Irradiation of Food | A statement that food, ingredient or component has been treated with ionising radiation, e.g. ‘Treated with ionising radiation’, ‘Treated with ionising electrons’ or ‘Irradiated (name of food)’. |
| Formulated meal replacement | Subclause 3(4), Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods | A statement to the effect that the product must not be used as a total diet replacement. |
| Formulated | Subclause | A description of the role of the food as a |

| Food or substance in food | Reference in new Code | Mandatory advisory statement |
|---|---|--|
| <p>supplementary foods</p> <p>Formulated supplementary foods (young children)</p> | <p>5(3), Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods</p> <p>Subclause 7(3), Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods</p> | <p>supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual’s requirements.</p> <p>A description of the role of the food as a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual’s requirements.</p> |
| <p>Formulated supplementary sports foods (high carbohydrate supplement)</p> | <p>Subclause 7(2), Standard 2.9.4 – Formulated Supplementary Sports Foods</p> | <p>Statements to the effect that:</p> <p>(a) if used during exercise, the food should be consumed in accordance with directions, to avoid the possibility of gastrointestinal upset; and</p> <p>(b) the food must be consumed with an appropriate fluid intake.</p> |
| <p>Formulated</p> | <p>Subclause</p> | <p>A statement to the effect that the food must be</p> |

| Food or substance in food | Reference in new Code | Mandatory advisory statement |
|---|--|--|
| supplementary sports foods (protein energy supplement) | 8(2), Standard 2.9.4 – Formulated Supplementary Sports Foods | consumed with an appropriate fluid intake. |
| Formulated supplementary sports foods (energy supplement) | Subclause 9(2), Standard 2.9.4 – Formulated Supplementary Sports Foods Subclause 9(3), Standard 2.9.4 – Formulated Supplementary Sports Foods | Statements to the effect that: (a) if used during exercise, the food should be consumed in accordance with directions, to avoid the possibility of gastrointestinal upset; and (b) the food must be consumed with an appropriate fluid intake. If more than 30% of the energy yield of the energy supplement is derived from fat, a statement to the effect that the product is a high fat food and should be used for special fat loading strategies rather than everyday use. |
| Unpasteurised milk and liquid milk products | Clause 2, Standard 1.2.3 – Mandatory Warning Statements and Declarations | Statement to the effect that the product has not been pasteurised. |
| Food containing aspartame | Clause 2, Standard 1.2.3 – Mandatory | Statement to the effect that the product contains phenylalanine. |

| Food or substance in food | Reference in new Code | Mandatory advisory statement |
|--|--|---|
| | Warning Statements and Declarations | |
| Unpasteurised egg products | Clause 2, Standard 1.2.3 – Mandatory Warning Statements and Declarations | Statement to the effect that the product is unpasteurised. |
| Food containing quinine | Clause 2, Standard 1.2.3 – Mandatory Warning Statements and Declarations | Statement to the effect that the product contains quinine. |
| Kola beverages containing added caffeine | Clause 2, Standard 1.2.3 – Mandatory Warning Statements and Declarations | Statement to the effect that the product contains caffeine. |
| Food containing guarana or extracts of guarana | Clause 2, Standard 1.2.3 – Mandatory Warning Statements and Declarations | Statement to the effect that the product contains caffeine. |

Mandatory advisory information for foods containing polyols or poldextrose

Foods containing polyols or poldextrose above certain levels must include an advisory statement on the label where the food contains any of the substances listed below.

| Group | Substance | Level | Advisory Statement |
|--------------|---|-------------------|---|
| A | Lactitol, maltitol, maltitol syrup, xylitol, mannitol | ≥ 10 g/100 g | Statement to the effect that excess consumption of the food containing these substances may have a laxative effect. |
| B | Sorbitol, erythritol, isomalt, polydextrose | ≥ 25 g/100 g | |
| | Combination of Groups A and B | ≥ 10 g/100 g | |

Clause 5, Standard 1.2.3 specifies that foods containing polyols or polydextrose at or above certain levels must include an advisory statement.

Mandatory declarations of certain substances in food

Certain substances must be declared on labels when present in a food whenever they are used as:

- an ingredient in a food;
- part of a compound ingredient;
- a food additive or component of a food additive; or
- a processing aid or component of a processing aid.

The following list sets out the substances that must be declared when present in a food.

Including these substances in a list of ingredients would fulfil the declaration requirements:

- cereals and cereal products containing gluten, namely, wheat, rye, barley, oats, spelt and their hybridised strains (see below for more information on products containing gluten and wheat starch);
- crustacea and their products;
- egg and egg products;
- fish and fish products;
- milk and milk products;
- nuts and sesame seeds and their products;
- peanuts and soybeans, and their products;
- added sulphites in concentrations of 10 mg/kg or more;
- royal jelly presented as a food or royal jelly present in a food;
- bee pollen; and
- propolis.

Clause 4, Standard 1.2.3 lists substances which must be declared whenever they are used in the manufacture of a food, and the exemptions to these cases.

Examples

Milk is used as an ingredient in the production of cheese and therefore needs to be declared as an ingredient on the label of the cheese.

Bee pollen in honey does not need to be declared. This is because bee pollen is naturally present at very low levels in honey and does not fall under the definition of 'ingredient' used in the manufacture of honey.

Declaration of cereals containing gluten or wheat starch

GLUTEN

In addition to the mandatory declaration of the presence of the cereal containing gluten in the ingredient listing of a product, the following claims in relation to gluten are permitted:

- ‘gluten free’
- ‘low in gluten’
- ‘high in gluten’, or
- ‘contains gluten’.

For specific guidance on the use of gluten claims see ANZFA’s user guide on nutrition information labelling, which explains Standard 1.2.8 – Nutrition Information Requirements.

Clause 16, Standard 1.2.8 – Nutrition Information Requirements sets out the criteria for claims about gluten.

WHEAT STARCH

Any product that contains wheat starch must carry a declaration advising the presence of wheat. An example of such a product includes wheat-based cornflour. The declaration of wheat is required even if a ‘gluten free’ claim is made.

Does coconut need to be declared?

Despite its name, coconut is not classified as a nut. The presence of coconut in food therefore does not need to be declared.

What if my product is exempt from the ingredient listing requirements of the new Code?

The mandatory declaration of substances listed above overrides any of the exemptions to the ingredient listing requirements of the new Code.

Are there any exemptions?

Beer and spirits as standardised Standard 2.7.2 and 2.7.5 respectively are exempt from having to declare the presence of gluten.

What if I change my product formula?

Occasionally, a manufacturer may substitute an ingredient with a similar one within the same class of foods, due to seasonal availability and/or price. If the substituted ingredient is a substance listed above, this must be declared on the label.

This is particularly important because people who are susceptible to adverse reactions from foods are likely to shop carefully in order to identify products that are free of specific allergens, but might not check the detailed ingredient list each time they purchase a particular product which they have previously found satisfactory.

Manufacturers should ensure consumers are adequately informed of any ingredient changes that require mandatory declaration. For example, if peanuts are substituted for brazil nuts, the presence of peanuts must be declared in the ingredient list on the label. An ingredient list for a food containing brazil nuts where peanuts are substituted could read:

Ingredients:

[Ingredient 1], [ingredient 2]; [ingredient 3], nuts (brazil or peanuts); [ingredient 5].

What about individual portion packs enclosed in a fully labelled outer package?

Individual portion packs, which are sold within fully labelled outer packages, are still required to declare the presence of substances listed above when present in the food. These declarations must be written on the label of the individual portion pack as well as on the outer package.

Example

The labels on individually wrapped muesli bars containing nuts which are sold in a fully labelled outer box, will need to declare the presence of nuts on the individual label, even though the individual bars are not intended for retail sale.

Clause 2 (1)(b) of Standard 1.2.1 – Application of Labelling and Other Information Requirements states that individual portion packs must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3.

For specific guidance on the other information requirements for foods exempt from bearing a label see ANZFA’s user guide on information requirements for food exempt from bearing a label.

What information is required for foods exempt from bearing a label?

Foods exempt from bearing a label are still required to comply with the mandatory prescribed statements (including warning statements), advisory statements and declarations described earlier in this guide. In cases where mandatory warning statements and other prescribed statements are required, the statement must always be provided:

- in writing, and
- displayed on or in connection with the display of the food.

In cases where mandatory advisory statements or the mandatory declaration of substances are required, the information may be provided either:

- by a sign displayed on or in connection with the display of the food, or
- verbally or in writing upon the request of the purchaser.

Clause 2(1)(a)–(g) of Standard 1.2.1 – Application of Labelling and Other Information Requirements lists foods exempt from having to bear a label.

For specific guidance on the other information requirements for foods exempt from bearing a label see ANZFA’s user guide on information requirements for foods exempt from bearing a label.

Where can I get more information?

For more information on the new standards call the:

Standards Information Unit

1300 652 166 (Australia)

0800 441 571 (New Zealand), or

Email: **advice@anzfa.gov.au**

See also

The Code of Good Manufacturing Practice for the Production of Gluten-Free and Low Gluten Foods. Contact the:

Australian Food and Grocery Council

Locked Bag 1

Kingston ACT 2604

Ph (02) 6273 1466

ANZFA's user guides on:

- Information Requirements for Foods Exempt from Bearing a Label
- Nutrition Information Labelling.

See also the user guide on Labelling Genetically Modified Food.