1999

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIA NEW ZEALAND FOOD AUTHORITY AMENDMENT BILL 1999 [NO. 2]

EXPLANATORY MEMORANDUM

(Circulated by authority of the Parliamentary Secretary to the Minister for Health and Aged Care, Senator the Hon Grant Tambling,)

26684 Cat No 99 1743 7 ISBN 0642 410348

AUSTRALIA NEW ZEALAND FOOD AUTHORITY AMENDMENT BILL 1999

OUTLINE

The Australia New Zealand Food Authority Amendment Bill 1999 amends *the Australia New Zealand Food Authority Act 1991*(the Act) to address recommendations arising from a number of recent reviews which relate to the operation of the Australia New Zealand Food Authority (the Authority).

The Bill will streamline the food standard-setting process of the Authority. It will allow the Authority (rather than the Australia New Zealand Food Standards Council (ANZFSC)) to deal with less significant applications and proposals for draft food standards and variations to standards in certain limited circumstances that have the prior approval of ANZFSC. It will also ensure that Codes of Practice developed by the Authority are developed in accordance with the assessment process that applies to food standards. As Codes of Practice are not legally binding, the Authority will finally approve them and not ANZFSC.

Measures will also be introduced that will enable the Authority to better prioritise its work of reviewing, modifying and developing the Food Standards Code, to effectively implement the new food safety standards, and permit product by product assessment of food products in order to effectively regulate food safety and consumer information in relation to the increasing number of technologically innovative food products.

The Act currently allows the Authority to charge persons or bodies in respect of services provided to them by the Authority. Charges will be prescribed for assessing applications outside its work program and for applications for which there is a capturable industry benefit. The amendments will enable the Authority to delay processing applications if such charges are not paid. The amount of such charges will be prescribed in regulations to be made under this Act. The regulations will not impose charges for applications within the work program of the Authority. They will prescribe conditions for whole or partial remission and refund of the prescribed charge.

FINANCIAL IMPACT

The Authority will be able to take on additional food standards work on a full cost recovery basis. These amendments will also enable the Authority to meet its statutory obligations by ensuring that its appropriated resources are spent on issues of greatest priority to the community.

REGULATORY IMPACT ASSESSMENT

Problem/Background

The Authority established by the Act was created as the National Food Authority in 1991 following an inter-governmental agreement between the Commonwealth, States and Territories, to develop nationally uniform food standards. New Zealand joined this partnership in 1996 through a formal Treaty establishing a system for developing joint food standards with Australia. Under these agreements, decisions on food

standards are taken jointly by Ministers from all participating jurisdictions in their role as the Australia New Zealand Food Standards Council (ANZFSC).

The food regulatory system in Australia is complex and fragmented, comprising a large number of agencies and legislation spread across three spheres of government. A number of reviews, which are either currently underway or recently completed, have identified specific problems with the existing system and have made recommendations to address the problems. These reviews are the Food Regulation Review, the Review of the Act against the National Competition Principles, and the Review of the State and Territory Food Acts and the Model Food Act. In addition, the Authority is currently involved in two major law reform tasks. These are the development of uniform food safety standards and related initiatives for Australia, and the development of a joint Australia New Zealand Food Standards Code.

A number of the problems identified in these reviews specifically relate to the Authority. While the establishment of a single agency for the development of national food standards has improved the situation with regard to the development of uniform food standards, concerns still remain regarding the length of time it takes the Authority to assess, and the ANZFSC to makes decisions on, less significant applications. Other concerns relate to the prescriptive, but not necessarily most effective, methods of consultation prescribed in the Act, the inability of the Authority to direct its appropriated resources to applications and proposals concerning public health and safety and consumer protection issues, the lack of a clear regulatory role for the Authority and the need to update the objectives for developing food regulatory measures.

Objective

The objective is to amend the operations of the Authority in order to improve the efficiency, transparency and accountability of the Authority whilst ensuring that the food regulatory system better protects public health and safety and consumers from misleading or deceptive behaviour in the sale, advertising and labelling of food.

Identification of alternatives

Option 1—no action

The Government would rely on the existing Act, Agreements and policies. The existing system ensures, through the Agreement between the States of Australia, the Northern Territory and the Australian Capital Territory in relation to the adoption of uniform food standards (1991) and the Treaty with New Zealand, that food standards are uniform throughout Australia and New Zealand. There would be no amendment to the Act.

Option 2—amend the Act

The *Australia New Zealand Food Authority Act 1991* would be amended to:

- give the Authority power to make decisions on minor amendments to the Food Standards Code where clear policy direction has already been given by ANZFSC, with ANZFSC having the capacity to over rule these decisions. The amendments

also increase the circumstances in which the Authority can shorten and increase the flexibility of the assessment process for applications and proposals;

- include objectives in the Act, and expand the functions of the Authority to reflect its current role;

- apply the Authority's assessment and consultation processes to the development of both food standards and codes of practice, and to make the primary objectives of those food regulatory measures the protection of public health and safety and the prevention of misleading and deceptive conduct in relation to the sale, advertising and labelling of food. The amendments will also clarify the things which the Authority is required to consider when developing new regulatory measures including requiring a consideration of the impacts of those food regulatory measures;

- amend the definition of food to be consistent with definitions in State and Territory Food Acts. The reforms will also provide the Minister with power to declare substances to be food in order to improve regulation at the food/drug interface. The new powers will also enable the Authority to implement the new food safety reforms and ensure that new foods and individual products can be regulated in a manner which will ensure the protection of public health and the prevention of misleading or deceptive behaviour;

- introduce a work program arrangement for the Authority to enable the Authority to delay processing applications which are outside its work program and recover costs for processing applications for which there is a capturable industry benefit. Linking the charges with a capturable benefit is consistent with Commonwealth government policy. These amendments were previously contained in the Australia New Zealand Food Authority Amendment Bill 1996, which lapsed during 1998 but have been revised during 1999 to incorporate comments arising from consultation.

Option 3—policy development

Policy would be developed, where possible, to satisfy the objective within the bounds of the current Act. This option is not considered a viable option because several of the proposed amendments cannot be achieved without amending the Act, specifically enabling the Authority to: amend its notification procedures; make minor decisions instead of ANZFSC; delay processing applications until prescribed charges (if any) are paid, effectively regulate new foods and food safety; and amend the objectives of food standards.

While policy development on its own is possible for some proposed amendments such as subjecting codes of practice to the Authority's assessment processes, requiring impact analysis of all food regulatory measures and clarifying the Authority's functions, it would not provide appropriate safeguards to government nor certainty to industry and consumers. Therefore, this option will not be considered further.

Cost/Benefit Analysis

Impact group identification

The following groups are relevant to the proposal:

- consumers — who wish food to be safe and to be able to participate in decision making processes;

- the food industry generally — who rely on consumer confidence in a safe food supply to sell their products, who bear the costs of complying with food law and who desire consistency between jurisdictions in how food law is interpreted and enforced;

- government — who have responsibility for protecting public health and safety in relation to food and who bear the cost of administering and enforcing legislation.

Assessment of Impact

	Advantages	Disadvantages
Government	• a more open and transparent food regulatory framework • a clearer focus for the Authority's activities • the Act will more accurately reflect the Authority's contemporary role and regulatory practice in Australia and New Zealand • more uniform enforcement of food standards • will allow effective implementation of other food regulatory reforms (eg uniform Food Acts, food safety initiatives, joint Food Standards Code) • demonstrates government's commitment to good regulatory practice • less regulatory burden on States and Territories because the Authority will be able to make decisions in relation to matters of minor significance or complexity • enables the Authority to enact procedures which are commensurate to significance of standards • more cost effective and flexible consultation procedures • greater reliance on targeted consultation will reduce paper burden • more responsive development of standards • enables the Authority to prioritise its work activities and recover costs for those applications where there is a capturable industry benefit • facilitates the closer alignment of the Authority's standard setting procedures with Codex	• it may increase stakeholder expectations in relation to deliverables
Industry	• improved clarity of roles and functions of the Authority • improved accountability of the Authority • improved uniformity of interpretation and enforcement of food law in Australia • appropriate use of a range of regulatory measures • more responsive development of standards	• the food sector will have to pay for those applications for which there is a capturable benefit
Consumers	• improved clarity of roles and functions of the Authority • improved accountability of the Authority • improved uniformity of interpretation and enforcement of food law in Australia • appropriate use of a range of regulatory measures • more responsive development of standards • the information needs of consumers will be considered by the Authority for all of its activities, not just standards	• potential for an increased burden on consumer organisations to disseminate information and coordinate responses on behalf of members • potential for cost of food to increase due to industry passing on application charges

Consultation

Extensive consultation was undertaken with stakeholders as part of the various reviews of food regulation in Australia. This consultation consisted of invited submissions, public hearing and focus groups as well as more informal discussions with particular groups. In addition, the Authority has specifically consulted on the proposed amendments to the Act with small business groups (retailers, hoteliers, caterers), food industry bodies (Australian Food and Grocery Council, Food Industry Council of Australia, New Zealand Grocery Manufacturers), consumer groups (Australian Consumers' Association, New Zealand Consumers' Institute), retail

associations (Australian Supermarket Institute, New Zealand Retail Merchants' Association), and relevant Commonwealth, State and Territory and New Zealand government bodies including ANZFSC, the Australia New Zealand Food Authority Advisory Committee (ANZFAAC) and Senior Food Officers from all jurisdictions.

The current amendments which relate to work prioritisation and prescribing fees were extensively consulted on during 1997 and 1998. The amendments incorporate recommendations arising from consideration by the Senate and further consultation with industry and consumers during 1999. Targeted consultation will also be undertaken with key stakeholders during development of the regulations which will specify categories of applications and the charges applicable to those categories.

Preferred option

Option 2 is the preferred option because it will improve the efficiency, transparency and accountability of the Authority whilst ensuring that the food regulatory system more effectively protects public health and safety and consumers from deception.

The amendments are part of a package of reforms to improve the overall uniformity and effectiveness of the Australian food regulatory system and to enable the government to satisfy its obligations with regard to the development of a joint Australia New Zealand food standards setting system.

Giving the Authority power to make decisions on minor amendments to the Food Standards Code and increasing the circumstances in which the Authority can shorten the assessment process for applications and proposals, provides the Authority with more flexible consultation and decision making processes. These will improve overall operational efficiency and responsiveness and provide the Authority with greater flexibility in its consultation with stakeholders. These amendments will also reduce the time in which it takes industry to have new products introduced onto the market allowing industry to be more innovative and competitive. Any additional costs that may be imposed on consumers by these amendments will be minimised because the Authority will be required to better plan consultation and identify stakeholders at the beginning of the assessment process.

Including objectives into the Act and expanding the functions of the Authority to reflect its current role will clarify the regulatory role of the Authority and will provide certainty to industry, consumers and government. There are no costs associated with these amendments.

Applying the Authority's transparent processes and impact assessment to the development of both food standards and codes of practice, and revising the primary objectives of those food regulatory measures will provide greater transparency in the development of quasi-regulation and will reduce existing confusion about the types of matters which are appropriate for inclusion in food regulatory measures. There will be no additional costs to the Authority or to industry and consumers through assessment of codes of practice, as the Authority already applies such processes as a matter of policy to codes of practice.

Amending the definition of food and providing the Minister with power to declare substances to be food will improve consistency with other legislation. This will provide greater certainly to enforcement agencies and industry thereby reducing costs.

Amending the Act to enable the Authority to implement food safety reforms and enable the regulation of new foods and individual products will protect public health and prevent deceptive behaviour. This will benefit all stakeholders. There are no costs associated with these amendments.

Amending the Act to enable the Authority to delay processing applications will enable the Authority to effectively plan and resource its law reform tasks and allocate its resources effectively. Recovering costs for processing applications for which there is a capturable industry benefit will incur costs on industry. However the costs are not considered to be significant as there are significant efficiency gains to industry through other amendments to the Act and the charge is only payable where there is a capturable benefit to the applicant. Possible flow on costs to consumers will be unlikely to occur in all circumstances.

Option 1, which would entail no action, would rely on the existing Act, Agreements and policies. Several of the changes to the Authority's processes would not be possible which would mean that costs savings to government and industry would be unable to be realised. No legislative amendment will also impede food regulatory reform in Australia as many of the proposed changes to food safety arrangements, the Food Standards Code and the State and Territory Food Acts are contingent on the amendments.

AUSTRALIA NEW ZEALAND FOOD AUTHORITY AMENDMENT BILL 1999

NOTES ON CLAUSES

Clause 1

The first clause of the Bill provides for the short title for the legislation.

Clause 2

Clause 2 provides for the commencement of the legislation. It will commence on the day it receives Royal Assent other than item 13 of Schedule 1. Item 13, which enables standards to relate to particular brands of food in addition to a type of food generally, will be taken to have commenced on 30 July 1998 to ensure that existing standards are enforceable.

Clause 3

This clause provides that the *Australia New Zealand Food Authority Act 1991* is amended in accordance with Schedule 1 to the Bill.

SCHEDULE 1 – AMENDMENT OF THE AUSTRALIA NEW ZEALAND FOOD AUTHORITY ACT 1991

Item 1

This item amends the title of the Act to state that the Authority has functions relating to the development of 'food regulatory measures' instead of only 'food standards'. This will mean that the Authority will be able to develop codes of practice as well as food standards and together they will be referred to as 'food regulatory measures'. The amendment reflects the Authority's current practice of following the Part 3 processes of the Act in relation to the development of codes of practice.

Item 2

This item specifies an overall objective for the Act in order to provide public transparency and a concise statement of the role of the Authority. This implements a recommendation arising from the National Competition Policy review of the Act conducted during 1998.

Item 3

This item inserts a definition of 'code of practice'. It is defined to mean a code of practice developed by the Authority under Part 3 of the Act. It is not intended to prevent industry from developing its own codes of practice.

Item 4

This item repeals the existing definition of 'food' in subsection 3(1) of the Act and substitutes it with a definition that provides that 'food' has the meaning given in new section 3A.

Item 5

This item inserts a definition of 'food regulatory measure' into the definition section of the Act. It defines it to mean a standard or code of practice.

Item 6

This item repeals the definition of 'New Zealand standard' because the only references in the Act to a New Zealand standard have been omitted from existing subsections 15(2) and 23(2). Any New Zealand standards which remain in existence after implementation of the Australia New Zealand Food Standards Code (the ANZ Food Standards Code) will still be considered under 'other relevant matters' as part of the Authority's Part 3 processes. Prior to implementation of the Australia New Zealand Food Standards Code, existing New Zealand Standards will continue to be considered under 'other relevant matters'.

Item 7

This item makes consequential amendments to ensure that 'standards' means 'standards' which have been adopted by the Council and those which have been 'taken to have been adopted' by the Council under new sections 20C or 28C.

Item 8

This item inserts a new definition of 'food' arising from the review of the State and Territory Food Acts to ensure a paddock to plate approach to food regulation and to provide consistency with the State and Territory Food Act definition. It makes clear that 'food' can include live animals and plants which are intended for human consumption.

The definition will also enable the Minister to make a written declaration that a substance or thing is food for the purposes of the Act. This will enable the Authority to develop standards or codes of practice in relation to such a substance or thing where this is necessary to protect public health and safety. The declaration will be a disallowable instrument.

The definition and the declaration process are also consistent with the *Therapeutic Goods Act 1989* provisions in order to ensure that products such as those at the food/drug interface, can be regulated effectively to protect public health and safety and to prevent misleading and deceptive conduct.

Item 9

This item rewrites subsection 7(1) of the Act which sets out the functions of the Authority. The majority of these proposed new functions arose from the National Competition Policy Review of the Act. Some of the existing functions have undergone some minor re-wording.

The proposed new functions of the Authority are, in consultation with the States and Territories, or on its own initiative:

- to develop guidelines to assist the interpretation of the Australia New Zealand Food Standards Code;
- to facilitate the harmonisation of State and Territory laws relating to food;
- to coordinate the development of procedures required to implement requirements set out in the standards;
- to coordinate and monitor enforcement activities relating to food;
- at New Zealand's request, to perform functions for New Zealand similar to other functions performed by the Authority. Any functions performed under this provision will generally be performed as negotiated under the food standards treaty with New Zealand; and
- to participate in international, regional and bilateral negotiations on matters that may be included in standards.

Item 10

This item is a consequential amendment to the numbering amendment made by item 8.

Item 11

This item substitutes 'food regulatory measures' for the word 'standards' wherever it appears in subparagraph 8(1)(e)(i) of the Act to ensure that it applies to both standards and codes of practice.

Items 12, 13 and 14

These items include further matters about which standards and variations of standards may be made. The new matters are necessary to ensure the effective implementation and enforceability of the food safety standards and several other new standards, including those that will permit product by product approval of foods, currently being developed by the Authority.

Standards and variations of standards will also be able to be made which restrict the publications in which particular foods may be advertised and/or restrict the premises from which particular foods may be sold or the persons who may sell those foods. These restrictions will be able to be made when necessary to protect public health and safety and are likely to require authorisation under section 51 of the *Trade Practices Act 1974.*

Item 15

This item provides that codes of practice, and variations of codes of practice, may deal only with matters that may be included in standards. This is to ensure that the Authority may only make codes of practice in relation to food matters about which it has expertise and to ensure that the Authority is not obliged to accept inappropriate applications relating to codes of practice eg where the development of a code of practice does not relate to the protection of public health and safety or the prevention of misleading and deceptive conduct.

Item 16

This item recasts the matters that the Authority must consider when developing and varying standards and, in the future, codes of practice. It implements a recommendation of the review of the *Australia New Zealand Food Authority Act 1991* against National Competition Principles, the intent of which is to confine the objectives of developing food regulatory measures to objectives that satisfy the competition policy principles.

The section is recast to provide 2 objectives, in descending priority order, for the development of food regulatory measures, the protection of public health and safety and the prevention of misleading or deceptive conduct. The new section then goes on to list, in no order of priority, the matters that must be taken into consideration when developing or varying food regulatory measures.

Items 17 and 18

These items substitute the existing headings to Part 3 and Division 1 of Part 3 of the Act with headings that reflect the fact that Part 3 will now apply to the development of codes of practice as well as standards.

Item 19

This item substitutes 'food regulatory measures' for the word 'standards' in subsection 12(1) and in the heading to section 12 of the Act.

Item 20

This item provides that an application for the development or variation of a food regulatory measure for which the Authority has fixed charges under section 66 of the Act must be accompanied by the payment of the charges in relation to preliminary assessment and the giving of notices under section 14 of the Act as part of the application.

Item 21

This item substitutes food regulatory measures for the word 'standards' wherever it appears in the note to subsection 12(2) of the Act.

Item 22

This item repeals sections 12A, 13, 14, 15, 16 and 17 and substitutes with new sections 12A, 12B, 13, 13A, 14, 15, 15A, 16, 17, 17A and 17B.

New subsection 12A(1) differs from the current subsection 12A(1) by allowing for the withdrawal of an application prior to the Authority making a decision under new subsection 20A(2).

New subsection 12A(2) changes the Authority's obligations in regard to bodies and persons that it must notify of withdrawal of an application. It removes the Authority's obligation to publish in the *Gazette*, the New Zealand Gazette and in national newspapers.

New section 12B provides for the refunding of charges when an application is withdrawn at various stages of the Part 3 processes.

New section 13 provides for the making of a preliminary assessment of applications that are made in relation to codes of practice as well as in relation to food standards. It also provides that the preliminary assessment must include a cost benefit analysis of, and consideration of the cost-effectiveness of alternatives to, the development or variation of a food regulatory measure. It also provides that New Zealand standards will now be considered under 'any other matters'.

New subsections 13A(1), (2) and (3) repeat the requirements of old subsection 13(4) by providing for the Authority's obligations in regard to acceptance and rejection of an application. New subsections 13A(4) and (5) make provision for the refunding of charges when an application is rejected at preliminary assessment.

New section 14 makes minor changes to the Authority's obligations in regard to inviting submissions on an application by eliminating the requirement for the Authority to place advertisements in the *Gazette* and the New Zealand Gazette. The Authority is still required to notify the public but the method of public notice will be in a manner considered as most appropriate by the Authority.

New section 15 repeats the requirements of current section 15 in relation to the Authority's obligations in making a full assessment of an application, applying those obligations to food regulatory measures rather than just food standards. The new section places additional requirements of carrying out a cost benefit analysis of, and to consideration of the cost effectiveness of alternatives to, the development of food regulatory measures. It also provides that New Zealand standards will now be considered under 'any other matters'.

New subparagraphs 15(2) (a) and (b) will allow the Authority to not further progress an application until such time as the prescribed charge (if any) has been paid.

New subsection 15A(1) repeats the requirements of current subsection 15(3) by providing for the Authority's obligations after making a full assessment of an application. New subsections 15A(2) and (3) make provision for the refunding of charges if the application is rejected at full assessment or, where the application was rejected at full assessment, appeal processes have upheld the Authority's rejection.

New section 16 applies to applications for which there is a prescribed charge. After it has prepared a draft or variation to a food regulatory measure the Authority must, in the case of an application for which a charge is prescribed, invite the applicant to request the Authority to hold an inquiry to consider the draft and upon such a request the Authority must hold an inquiry subject to payment of charges by the applicant where applicable.

New section 17 applies to applications for which there is no prescribed charge. After it has prepared a draft or variation to a food regulatory measure the Authority must hold an inquiry.

New section 17A reflects the Authority's existing obligation to give notice following rejection of all applications.

New section 17B provides for approval or rejection of codes of practice by the Authority rather than the Council because the codes of practice are not legally binding. Approval or rejection of food standards must be carried out by the Council under current section 18 or by the Authority under section 20A.

New Sections 16, 17, 17A and 17B also make efficiency changes to the Authority's notification requirements in relation to rejection of applications and holding of inquiries, requiring only notification to appropriate government authorities and people who have made submissions and have thereby demonstrated an interest in the subject of the application.

Item 23

This item is an amendment consequential to the inclusion of new section 20A.

Item 24

This item makes an efficiency change to the Authority's obligations in relation to notifying the outcomes of an inquiry. The changes mean that how and who the Authority is to notify of an outcome of an inquiry is less prescriptive. The Authority must only notify the applicant, appropriate government agencies and people who have made submissions.

Item 25

This item inserts a new Division 1A into Part 3 of the Act. The new division makes provision for the Authority, rather than the Council, to deal with less significant applications for draft standards and variations to standards, those decisions made under these provisions to be taken as if they were made by the Council. Matters can only be dealt with under these provisions where Council has approved a general approach to be taken in such matters and any member of the Council may indicate its disagreement with the Authority's decision within 28 days of being notified. In the case of disagreement with the Authority's decision, the agreed Out-of-Session procedures of the Council will apply to the Authority's decision as if it had been a recommendation to the Council in the first instance.

Items 26 and 27

These clauses substitute food regulatory measures for the word 'standards' in the heading of Division 2 of Part 3 and in section 21.

Item 28

This item makes efficiency changes to the Authority's notification requirements in relation to proposals to develop or vary food regulatory measures. Public notice requirements will remain but the Authority will determine the most appropriate method to notify the public.

Item 29

This item repeats the requirements of current subsection 23(2) in relation to the Authority's obligations in making a full assessment of a proposal, applying those obligations to food regulatory measures rather than just food standards. The new

section places additional requirements of carrying out a cost benefit analysis of, and consideration of the cost effectiveness of alternatives to, the development of food regulatory measures. New Zealand standards will still be considered under 'other relevant matters'.

Item 30

This item substitutes 'food regulatory measures' for the word 'standards' in paragraph 23(3)(a).

Item 31

This item repeals sections 24 and 25 of the Act and substitutes new sections 24 and 25 that make efficiency changes to the notification requirements in relation to proposals and abandonment of proposals ensuring that notification is given to the appropriate government agencies and to those people who have made submissions.

New section 25A provides for approval or rejection of codes of practice by the Authority.

Item 32

This item is an amendment consequential to the inclusion of new section 28A.

Item 33

This item makes efficiency changes in relation to the Authority's notification obligation following an inquiry into a proposal to develop or vary a standard requiring the Authority to notify only appropriate government agencies and people and bodies who made submissions rather than giving public notice.

Item 34

This item inserts a new Division 2A into Part 3 of the Act. The new division makes provision for the Authority, rather than the Council to deal with less significant proposals for draft standards and variations to standards, those decisions made under these provisions to be taken as if they were made by the Council. Matters can only be dealt with under these provisions where Council has approved a general approach to be taken in such matters and any member of the Council may indicate its disagreement with the Authority's decision within 28 days of being notified. In the case of disagreement with the Authority's decision, the agreed Out-of-Session procedures of the Council will apply to the Authority's decision as if it had been a recommendation to the Council in the first instance.

Item 35

This item inserts new sections 30A and 30B. New section 30A permits the Authority, in addition to its notice requirements previously mentioned, to give public notice or notify any other body or person of matters that it is obliged to notify in relation to a number of matters. Section 30B requires the Authority to notify in a manner that is most appropriate.

Item 36

This item requires the Authority to gazette standards and variations to standards that have been adopted as a result of the new Divisions 1A and 2A in the same manner that is currently followed for gazettal of standards adopted under sections 20 and 28.

Items 37, 38, 39, 40 and 41

These items substitute food regulatory measures for the word 'standards' in sections 33 and 34 thereby enabling the Authority to review codes of practice and, in relation to applications for a code of practice, require further information. Item 39 also makes a consequential numbering amendment.

Items 42 and 43

These items require the Authority to notify an applicant as well as appropriate government agencies and people and bodies who have made submissions when an application is taken to have been withdrawn.

Items 44 and 45

These items apply the existing 12 month time limit to decisions made by the Authority under section 20A in relation to applications and provides for an extension of that time in the same situations as are currently allowed.

Items 46, 47, 48 and 49

These items provide that the time between a request for payment of prescribed fees and the payment of the prescribed fees is not to be counted as time towards the 12 month time limit for the decisions covered by subsection 35(1).

Item 50

This item changes the circumstances in which the Authority can simplify an application or proposal process. The amendment means that the Authority can simplify the process in circumstances where it is satisfied that either omitting a part of the process will not have a significant adverse affect on the interests of anyone, or that the application or proposal raises issues of minor significance or complexity only. If the Authority makes a decision under this section in relation to an application it must give notice of its decision to the applicant.

Item 51

This item makes efficiency changes to the Authority's notification obligations in relation to a decision made to rely on work or processes of another government agency in relation to an application or proposal. The Authority must notify appropriate government agencies, the applicant, and people or bodies who made submissions, rather than having to notify in the *Gazette*, the New Zealand Gazette and national papers.

Items 52 and 53

These items make consequential amendments to ensure that, where a recommendation has been made to the Council as a matter of urgency under section 37 of the Act, the Authority must hold an inquiry under new sections 16 (where the application is one for which there is a prescribed charge), section 17 (where the application is one for which there is no prescribed charge) and section 24 (in the case of proposals).

Item 54

This item applies the existing commercial in confidence obligations which relate to standards to codes of practice also.

Item 55

This item amends the Act to reflect the expanded role that the advisory committee has taken on since its inception by deleting the prohibition on the Food Advisory Committee advising on an application unless it has been referred to the committee by the Authority for advice.

Items 56 and 57

These items amend the Act to obviate the need to amend the Act whenever there is change in Commonwealth government department names or Ministerial responsibilities.

Item 58

This item provides that money received for charges made by the Authority under section 66 becomes money of the Authority.

Items 59 and 60

These items are consequential to the amendments made by item 22.

Item 61

This item redrafts a provision which was previously unclear.

Item 62

This item makes consequential amendments to reflect the changes made by item 51 which removes the need to publish, in the *Gazette* and the New Zealand Gazette, notice of work undertaken by another government agency.

Item 63

This item repeals the existing power for regulations under the Act to impose fees for services provided by the Authority, and replaces it with a new section 66 which clarifies that fees can also be charged for facilities provided by the Authority. The new section also requires monies paid under this section to be paid to the Authority.

This item also inserts new sections 66A, 66B and 66C which provide for the making of regulations which can prescribe the persons and bodies by whom the charges are payable and the times when such charges are payable. Charges prescribed in the regulations must be reasonably related to the expense incurred by the Authority and must not amount to taxation. The regulations can deal with the remission or refund of charges, in whole or in part and also can make provision for late payment penalties and discount for early payment.

The revised section 66 also clarifies that regulations do not need to be made to enable the Authority to charge for services or facilities provided by the Authority under contract.

Item 64

This item amends the Act consequential to the amendments in clauses 20C and 28C.

Item 65

This item requires the Authority's annual report to list all instances where the Council is taken to have adopted, rejected or returned to the Authority for reconsideration, a draft standard or draft variation to a standard made under section 20C or 28C outside the 12 month statutory time frame in the same manner as decisions made by the Council under sections 20 or 28 must currently be listed.

Item 66

This item repeals a now redundant provision of the Act that provided for the continuity of applications that were made prior to the Act coming into force.

PART 2 – SAVINGS AND TRANSITIONAL PROVISIONS

Item 67

This item provides that any regulations made under section 9(f) which are in force prior to the commencement of the amending Act will continue in force until repealed and replaced by new regulations.

Item 68

This item ensures that current membership of the Australia New Zealand Food Authority Advisory Committee is not changed by the amendments to the departmental names contained in items 56 and 57.

Item 69

This item provides that the new notification and fast tracking arrangements in the amending Act apply only to applications and proposals made after the amending Act comes into force.

Item 70

This item provides that Principal Act means the *Australia New Zealand Food Authority Act*.