

Food for Export – Exemptions from Domestic Compositional Standards

Proposed Food Notice

New Zealand Food Safety Discussion Paper No: 2019/04

Prepared for all exporters of food

by the MPI Food & Live Animal Assurance Team

ISBN No: 978-1-98-859429-3

ISSN No: 2624-0157

April 2019

Disclaimer

While every effort has been made to ensure the information in this publication is accurate, the Ministry for Primary Industries does not accept any responsibility or liability for error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information.

Requests for further copies should be directed to:

Publications Logistics Officer
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140

Email: brand@mpi.govt.nz
Telephone: 0800 00 83 33
Facsimile: 04-894 0300

This publication is also available on the Ministry for Primary Industries website at <http://www.mpi.govt.nz/news-and-resources/publications/>

© Crown Copyright - Ministry for Primary Industries

Contents

Page

1. Submissions	1
1.1 How to have your say	1
1.2 The Official Information Act 1982 (the OIA)	2
2. Background	3
3. Proposed changes	3
3.1 Removal of exemptions no longer required	3
3.2 Need for exemptions to be for a particular product and market	4
3.3 Restructure of the schedules	4
3.4 Incorporation by reference	4
3.5 Record keeping requirements	5
Annex 1: Mapping of existing exemptions to proposed locations	6
Annex 2: Recommended table of submissions	7

1. Submissions

The Ministry for Primary Industries (MPI) invites your comment on this discussion paper and on the proposed Food Notice: Food for Export – Exemptions from Domestic Compositional Standards

You may compile your submissions by answering the five questions in this discussion document or commenting on any of the highlighted provisions in the proposed notice.

MPI recommends that the body of your submission is set out in a format that is identical or similar to the table in Annex 2.

Consultation closes on Friday 3 May 2019

1.1 HOW TO HAVE YOUR SAY

MPI encourages submitters to make their submission electronically so please email your submission to: food.assurance@mpi.govt.nz.

If you choose to convey your submission in writing, it should be posted to the following address:

Consultation – Exemptions for Exported Food
Food & Live Animal Assurance Team (Level 11 TSB Tower)
PO Box 2526
Wellington 6140

Please include the following information in your submission:

- the title and number of the discussion document;
- your name and title (if applicable);
- your organisation's name (if applicable); and
- your address

The following points may be of assistance in preparing comments:

- where possible, comment should be specific to a particular section in the document. All major sections are numbered and these numbers should be used to link comments to the document;
- where possible, reasons and data to support comments may be provided;
- the use of examples to illustrate particular points is encouraged;
- as a number of copies may be made of your comments, please use good quality type, or make sure the comments are clearly hand-written in black or blue ink.

1.2 THE OFFICIAL INFORMATION ACT 1982 (THE OIA)

Everyone has the right to request information held by government agencies, known as “official information”. Under the OIA, information is to be made available to requesters unless there are reasonable grounds for withholding it. The grounds for withholding information are outlined in the OIA.

If you are submitting on this discussion document, you may wish to indicate any grounds for withholding information contained in your submission. Reasons for withholding information could include commercially sensitivity or privacy. MPI will consider such grounds when deciding whether or not to release information.

Any decision to withhold information requested under the OIA may be reviewed by the Ombudsman.

For more information please visit <http://www.ombudsman.parliament.nz/resources-and-publications/guides/official-information-legislation-guides>

1.3 WHAT HAPPENS NEXT

MPI will consider all submission after consultation has closed and a recommendation will be made to the relevant decision maker about the final version of the proposed Notice to be issued. A summary of submissions and analysis will be sent to all submitters and posted on the MPI website.

The new Notice is scheduled be issued on 27 May 2019

Indicative timeframes

Key dates	Action
Friday 5 April 2019	Consultation starts
Friday 3 May 2019	Consultation closes (4 weeks consultation)
Friday 17 May 2019	Consideration of submissions (2 weeks)
Friday 24 May 2019	Final review (1 week)
Monday 27 May 2019	Notice is issued

2. Background

Stakeholders have previously informed MPI that legislation can be difficult to find and understand. To assist exporters to identify all compositional exemptions that have been granted for specific food products exported to particular markets, MPI is proposing to consolidate a number of notices.

The notices that MPI are proposing to consolidate are those granting exemptions from compositional requirements in the following standards:

- Australian New Zealand Food Standards
- Supplemented Food Standard 2016

These are the:

- Animal Products (Glycerol Esters of Fatty Acids in Milk and Cream Based Formulations – Food Standards Exemption) Notice 2007
- Animal Products Notice: Dairy Products – Food Standards Exemption - 6 December 2017
- Food Notice: Food Standards Exemption Fonterra Limited – 7 November 2018
- Food Notice: Dairy Based Products – Food Standards Exemption No. 5 -20 November 2018

While there is no intention to remove exemptions that are required there are several exemptions MPI believe are redundant and so is proposing to remove.

Additionally there are changes to the way the exemptions and schedules have been structured in the proposed notice.

3. Proposed changes

3.1 REMOVAL OF EXEMPTIONS NO LONGER REQUIRED

In general this consolidation is not intended to change the current exemptions however there are several exemptions that we are proposing to remove as follows:

Existing Notice	Exemptions	Reason for Removal
Animal Products Notice Dairy Products – Food Standards Exemption (Schedule 1)	Protease EC 3.4.21.63 sourced from <i>Aspergillus melleus</i> for product to Canada, China and Taiwan.	<i>Aspergillus melleus</i> is now permitted as a source of Protease EC 3.4.21.63 in the Australia New Zealand Food Standard Code
Animal Products Notice Dairy Products – Food Standards Exemption (Schedule 1)	Ferric Chloride for iron supplementation of food exported to Japan and Taiwan	The applicant for this exemption has indicated that it is no longer required.
Animal Products Notice Dairy Products – Food Standards Exemption (Schedule 1)	Metalloproteinase from <i>Bacillus stearothermophilus</i>	The applicant for this exemption has indicated that it is no longer required.
Animal Products (Glycerol Esters of Fatty Acids in Milk and Cream Based Formulations – Food Standards Exemption) Notice 2007	Maximum Level of Glycerol Fatty Acids for Milk and Cream Formations for Japan	The applicant for this exemption has indicated that it is no longer required.

Question 1: Will you be impacted by the above removal of exemptions because you rely on them for product you export?

3.2 NEED FOR EXEMPTIONS TO BE FOR A PARTICULAR PRODUCT AND MARKET

The empowering provision for issuing exemptions by Notice is now Section 347 of the Food Act 2014. This section requires that exemptions are specific to a particular market or markets and to a particular food.

In order to meet this criteria the schedules in the notice have been restructured to clearly identify the product and market for each exemption.

MPI does not have details regarding the product for one exemption. This is the exemption for Lipase triacylglycerol EC 3.1.1.3 sourced from *Alcaligenes*. This exemption is currently listed in Schedule 1 of The Animal Products Notice: Dairy Products - Food Standards Exemption 2017 (6 Dec) and in Schedule 3 of the proposed notice.

In order for this exemption to remain in the final notice MPI requests that any companies relying on it make contact to supply details regarding products exported which are utilising this exemption. If the product details are not able to be established this exemption will need to be removed from the Notice.

Question 2: Do you depend on the exemption for Lipase triacylglycerol EC 3.1.1.3 sourced from *Alcaligenes*?

If so what products are you exporting that utilise this exemption?

3.3 RESTRUCTURE OF THE SCHEDULES

The tables in the schedules of the proposed notice have been restructured from those in the existing notices to aid clarity and ensure a consistent format.

Each table:

- has columns to specify the product and market
- is ordered by product and then market
- has columns for minimum and/or maximum levels of the constituent to allow either requirement to be clearly shown.
- has a column indicating the row number. To aid referencing when keeping records, as proposed in Part 4 of the notice.

Note that in future versions of the notice, it is proposed that when additional rows are added these will be numbered in such a way that the row numbers for any existing exemption will remain consistent.

A spreadsheet has been provided in Annex 1 to assist stakeholders locate information in the consolidated Notice and reconcile it with the source documents.

Question 3: Do you find the format and numbering of rows in the schedules tables helpful?

3.4 INCORPORATION BY REFERENCE

Notice is given under clause 7(d) of Schedule 6 of the Food Act 2014 that, under section 444, the Codex Standard for Follow-up Formula (CODEX STAN 156-1987 (which has historically been referenced in the Food Notice: Dairy Based Products – Food Standards Exemption No. 5 -20 November 2018) is now proposed to be incorporated by reference into the Food Notice: Food for Export – Exemptions from Domestic Compositional Requirements

The Codex standard is freely available on-line and can be accessed at:
http://www.fao.org/input/download/standards/293/CXS_156e.pdf .

The material may also be inspected free of charge at: The Ministry for Primary Industries, Food and Live Animal Assurance, 147 Lambton Quay, Wellington on Monday to Friday between 8:30am – 5:00pm.

Question 4: Do you have any concerns regarding the incorporation by reference of the Codex Standard for Follow-up Formula?

3.5 RECORD KEEPING REQUIREMENTS

The record keeping requirements currently in the Food Notice: Dairy Based Products – Food Standards Exemption No. 5 have been incorporated into the proposed notice (with slight amendments) so that they apply to all situations where exemptions from the domestic compositional standards are granted for exported product.

Additionally it is proposed that the row number of the Schedule is required in the records kept. The rationale for this is that, as schedules expand, this will make it easier to locate appropriate exemptions during verification of records.

Question 5: Do you agree with the record keeping requirements proposed?

Annex 1: Mapping of existing exemptions to proposed locations

Original Notice	Location Original Notice	Location in Proposed Notice
FN Dairy Based Products - Food Standards Exemption 2018 - No 5	Part 2.1(1) Specified exemptions - FSFYC and Schedule 1	Part 2.1.1 FSFYC - Specific exemptions and Schedule 1
FN Dairy Based Products - Food Standards Exemption 2018 - No 5	Part 2.1(2) Specified exemptions - Infant Formula products and Schedule 2	Part 2.2 Exemptions for IF products and Schedule 2
FN Dairy Based Products - Food Standards Exemption 2018 - No 5	Part 2.1(3) Specified exemptions - Supplemented foods and Schedule 3	Part 3: Exemptions from the Requirements of the Supplemented Food Standard and Schedule 5
FN Dairy Based Products - Food Standards Exemption 2018 - No 5	Part 3.1 Exemptions where FSFYC meet importing country's product or food standard	Part 2.1.2 Exemption where FSFYC meet importing country's product or food standard
FN Dairy Based Products - Food Standards Exemption 2018 - No 5	Part 3.2 Exemptions where FSFYC meet importing country's product labelling, registration or approval requirements	Part 2.1.3 Exemptions where FSFYC meets the importing country's labelling, registration or approval requirements
FN Dairy Based Products - Food Standards Exemption 2018 - No 5	Part 3.3 Exemptions for FSFYC that meet accepted international standards	Part 2.1.4 Exemptions where FSFYC meet accepted international standards
FN Dairy Based Products - Food Standards Exemption 2018 - No 5	Part 4.1 Record keeping	Part 4 Record keeping Requirements
APN: Dairy Products - Food Standards Exemption 2017 (6 Dec)	Part 1.3 (1and2) and Schedule 1	Part 2.3.1 : Exemptions for other dairy products - Substances Added and Schedule 3
APN: Dairy Products - Food Standards Exemption 2017 (6 Dec)	Part 1.3 (3) and Schedule 2	Part 2.3.2 : Exemptions for other dairy products - Composition and Schedule 4
Food Notice: Food Standards Exemption Fonterra Limited – 7 November 2018	Part 2.1 and 2.2.	Part 2.3.2 : Exemptions for other dairy products – composition and Schedule 4

Annex 2: Recommended table of submissions

Please answer the question at the end of each proposal. You may write down your answer and any additional comments to each question in the format below.

Question Number	Comments
1	
2	
3	
4	
5	