

## **Food Amendment (Trans Fatty Acids Eradication) Bill 2008**

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to amend the *Food Act 2003* (***the Principal Act***):

- (a) to require packaged food containing artificially produced trans fatty acids to be labelled with certain information, and
- (b) to require the presence of artificially produced trans fatty acids to be indicated to prospective purchasers by restaurants, take away food shops and home delivery food businesses along with a warning about the dangers of trans fatty acids, and
- (c) to provide for the staged introduction of offences in relation to the handling of food resulting in the presence of artificially produced trans fatty acids and the sale of food containing artificially produced trans fatty acids, and
- (d) to require the Minister for Primary Industries and the Minister for Health to take certain action to

#### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Clause 3** is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

**Clause 4** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

#### **Schedule 1 Amendments**

**Schedule 1 [2]** inserts proposed section 10 into the Principal Act which defines trans fatty acids. The definition excludes trans fatty acids occurring naturally in food.

**Schedule 1 [1]** makes a consequential amendment.

**Schedule 1 [3]** inserts proposed Division 2A into Part 2 of the Principal Act containing proposed sections 23A, 23B and 23C.

Proposed section 23A creates an offence of selling or advertising for sale packaged food that contains trans fatty acids unless the food indicates the presence of those acids in the statement of ingredients required by the Food Standards Code and separately lists those acids in the nutrition information panel required by the Food Standards Code and is labelled with a warning that consumption of trans fatty acids is a health hazard. The proposed section also contains a 12-month exemption from the Commonwealth legislation relating to the mutual recognition of goods. The proposed section has effect from 3 months after its commencement and ceases to have effect on the commencement of proposed section 23C.

Proposed section 23B creates an offence for a person in charge of a restaurant (which includes a take away food business) to fail to provide information relating to the presence of trans fatty acids in food for sale and warnings of the danger of trans fatty acids, by means of signs or a menu. The proposed section also creates a similar offence in relation to home delivered food where a menu is provided for the food. The proposed section has effect from 3 months after its commencement and ceases to have effect on the commencement of proposed section 23C. Proposed section 23C makes it an offence for a person to handle food intended for sale in a manner that causes the presence of trans fatty acids in the food. The proposed section also prohibits the sale of food containing trans fatty acids. The proposed section also contains a 12-month exemption from the Commonwealth legislation relating to the mutual recognition of goods. The proposed section has effect from 2 years after its commencement.

**Schedule 1 [4]** contains a consequential amendment to section 28 of the Principal Act.

**Schedule 1 [5]** inserts proposed section 133I into the Principal Act to require the Minister for Primary Industries and the Minister for Health to use their best endeavours to ensure that a proposed resolution for the amendment of the *Food Standards Code* of the Commonwealth is listed for consideration by the Australia and New Zealand Food Regulation Ministerial Council. The amendment of that Code would have the effect of including the same requirements as to labelling, and the prohibition on sale, of foods containing trans fatty acids as are contained in proposed sections 23A and 23C, including the same time frame for their operation. Proposed section 133I also requires those Ministers to support the proposals for amendment of the *Food Standards Code* and to make representations to the Commonwealth Government for prohibiting the importation of food into Australia that does not comply with those proposals.

**Schedule 1 [6]** amends Schedule 2 to the Principal Act to enable regulations to be made of a savings or transitional nature consequent on the enactment of the proposed Act.