

NATIONAL FOOD AUTHORITY ACT 1991
No. 118 of 1991

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LONG TITLE

An Act to establish a National Food Authority with functions relating to the development of food standards, and for related purposes

PART 1 - PRELIMINARY

Short title

(Assented to 27 June 1991)

1. This Act may be cited as the National Food Authority Act 1991. (Minister's second reading speech made in-

House of Representatives on 14 May 1991

Senate on 30 May 1991)

Commencement

2. (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.

(2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

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Interpretation

3. (1) In this Act, unless the contrary intention appears:

“appropriate government agency” means:

- (a) a Department of State of the Commonwealth, and a Commonwealth authority, that is prescribed for the purposes of this paragraph; or
- (b) the National Health and Medical Research Council; or
- (c) the Department of State of each State and Territory that is primarily responsible for public health in that State or Territory; or
- (d) a State or Territory authority that is prescribed for the purposes of this paragraph; or
- (e) the Department of State of New Zealand that is nominated by the government of New Zealand;

“Authority” has the meaning given by subsection (2);

“committee” means a committee established under section 43;

“Commonwealth authority” means a body, whether corporate or not, established by the Commonwealth, or by or under a law of the Commonwealth;

“confidential commercial information”, in relation to food, means:

- (a) a trade secret relating to food; or
- (b) any other information relating to food that has a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed;

“Council” means:

- (a) the Council of Commonwealth, State and Territory Ministers that was established in 1986 by agreement between the Commonwealth, the States and the Northern Territory and is known as the National Food Standards Council; or
- (b) if that Council is reconstituted but continued in existence under that name by agreement between the Commonwealth, the States, the Northern Territory and the Australian Capital Territory, whether entered into before or after this Act commences - that Council as so reconstituted and continued in existence;

“food” includes:

- (a) any substance or thing of a kind used or capable of being used as food or drink by human beings; or
- (b) any substance or thing of a kind used or capable of being used as an ingredient or additive in, or substance used in the preparation of, a substance or thing referred to in paragraph (a); or
- (c) such other substance or thing as is prescribed; whether or not it is in a condition fit for human consumption, but does not include a therapeutic good within the meaning of the Therapeutic Goods Act 1989;

“Food Advisory Committee” means the National Food Authority Advisory Committee established under section 42;

“Food Standards Code” means the code known by that name published in the Gazette on 27 August 1987 together with any amendments of the standards contained in that Code:

- (a) that were approved by the Council before this Act commences and that are or were published in the Gazette as forming part of that code; or
- (b) that are made under this Act;

“member” means a member of the Authority and includes the Chairperson;

“prepare” includes process, manufacture and treat;

“produce” includes prepare;

“standard” means:

- (a) a standard that has been adopted by the Council under this Act; or
- (b) a standard that is included in the Food Standards Code;

“State or Territory authority” means a body, whether corporate or not, established by a State or Territory, or by or under a law of a State or Territory;

“Territory” means the Australian Capital Territory and the Northern Territory;

“trust money” means money received or held by the Authority on trust.

- (2) In this Act, a reference to the Authority is a reference:
- (a) except where the Authority is doing an act or thing that is related to a special purpose for which a person or persons have been appointed under paragraph 40 (1) (e) - to the Authority as established by section 6 and as constituted by the persons mentioned in paragraphs 40 (1) (a), (b), (c) and (d); and
 - (b) where the Authority is doing an act or thing related to a special purpose for which a person or persons have been appointed under paragraph 40 (1) (e) - to the Authority as established by section 6 and as constituted by the persons mentioned in paragraphs 40 (1) (a), (b), (c) and (d) and the persons mentioned in paragraph 40 (1) (e) who have been appointed for that special purpose.

Operation of Act

4. (1) Without prejudice to its effect apart from this section, this Act has effect for any or all of the following purposes:

- (a) for purposes connected with fixing:
 - (i) the standard of food sold by corporations; or
 - (ii) standards in relation to activities undertaken by corporations in respect of food before, or in connection with, its sale, where, in the case of trading corporations, those activities are undertaken for the purpose of the trading activities of the corporations;
- (b) for the purpose of ensuring, to the extent that the Constitution permits, that trade and commerce in food:
 - (i) between Australia and places outside Australia; or
 - (ii) among the States; is carried on in an efficient and profitable manner;
- (c) for purposes connected with the regulation of food and food standards in the Territories;
- (d) for purposes connected with controlling the standards of all food supplied to the Commonwealth, its authorities and its instrumentalities;
- (e) for purposes connected with the fixing of weights and measures in respect of food.

(2) In subsection (1): "corporation" means any corporation to which paragraph 51 (xx) of the Constitution is applicable;

“trading corporation” means a trading corporation to which paragraph 51 (xx) of the Constitution is applicable.

Act to bind Crown

5. This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory but nothing in this Act renders the Crown liable to be prosecuted for an offence.

PART 2 - ESTABLISHMENT, FUNCTIONS AND POWERS OF AUTHORITY

Establishment of Authority

6. (1) A National Food Authority is established.
- (2) The Authority:
- (a) is a body corporate with perpetual succession; and
 - (b) must have a seal; and
 - (c) may sue and be sued in its corporate name.
- (3) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the Authority appearing on a document and are to presume that the document was duly sealed.

Functions

7. The functions of the Authority are:
- (a) to deal with applications for the development or variation of standards in accordance with this Act; and
 - (b) to prepare proposals for the development or variation of standards and to deal with those proposals in accordance with this Act; and
 - (c) to prepare draft standards and draft variations of standards and to make recommendations to the Council in respect of those draft standards or draft variations; and
 - (d) to review standards; and
 - (e) in consultation with the States and Territories, or on its own initiative, to co-ordinate the surveillance by the States, the Territories and any other bodies or persons of food available in Australia; and
 - (f) in consultation with the States and Territories, or on its own initiative, to conduct research and surveys in relation to any of the matters that may be included in a standard; and
 - (g) in co-operation with the States and Territories, to develop food safety education initiatives; and

- (h) in co-operation with the Department administering Division 1A of Part V of the Trade Practices Act 1974, to co-ordinate the recall of food under that Division; and
- (i) at the request of the States and Territories, to co-ordinate action by the States and Territories to recall food under State and Territory laws; and
- (j) to develop assessment policies in relation to food imported into Australia; and
- (k) to provide advice to the Minister on matters relating to food; and
- (l) to develop codes of practice for industry on any matter that may be included in a standard; and
- (m) any functions incidental to any of the foregoing functions.

Powers

8. (1) The Authority has power to do all things necessary or convenient to be done in connection with the performance of its functions and, in particular, may:
- (a) enter into contracts; and
 - (b) acquire, hold and dispose of real or personal property; and
 - (c) occupy, use and control any land or building owned, or held under lease, by the Commonwealth and made available for the purposes of the Authority; and
 - (d) engage persons to perform services for the Authority; and
 - (e) provide assistance to bodies or persons to prepare submissions:
 - (i) relating to the development or consideration of draft standards or draft variations of standards; or
 - (ii) relating to the performance of any other function of the Authority; if the Authority determines that such assistance will advance the development or consideration of that draft or the performance of that other function; and
 - (f) accept gifts, grants, bequests and advances made to the Authority (whether on trust or otherwise) and act as trustee of money or other property vested in the Authority on trust; and
 - (g) do anything incidental to any of its powers.
- (2) The powers of the Authority may be exercised within or outside Australia.

Matters that may be included in standards and variations of standards

9. Standards, and variations of standards, developed by the Authority may relate to any of the following:
- (a) the composition of food, including:

- (i) the maximum amounts of contaminants or residues that may be present in the food; and
- (ii) its microbiological status and safety; and
- (iii) the method of sampling and testing the food to determine its composition;
- (b) the production of food including the maximum or minimum amounts of additives that must or may be used in the preparation of the food;
- (c) the packaging, storage or handling of food;
- (d) any information about food including labelling, promotion and advertising;
- (e) the interpretation of other standards;
- (f) such other public health matters relating to food as are prescribed.

Objectives of the Authority in developing standards and variations of standards

10. The Authority, in developing standards and variations of standards, must have regard to the following objectives in descending priority order:

- (a) the protection of public health and safety;
- (b) the provision of adequate information relating to food to enable consumers to make informed choices and to prevent fraud and deception;
- (c) the promotion of fair trading in food;
- (d) the promotion of trade and commerce in the food industry;
- (e) the promotion of consistency between domestic and international food standards where these are at variance, providing it does not lower the Australian standard.

Minister may give directions

11. (1) Subject to subsection (3), the Minister may give written directions to the Authority as to the performance of its functions and the exercise of its powers and the Authority must comply with those directions.

(2) The Minister must cause:

- (a) a copy of a direction given under subsection (1); and
- (b) a written statement of the reasons for giving the direction; to be laid before each House of the Parliament within 15 sitting days of that House after the direction is given.

(3) The Minister must consult with the Council before he or she gives a direction under subsection (1).

PART 3 - STANDARDS

Division 1 - Applications for the development and variation of standards

Applications for development or variation of a standard

12. (1) A body or person may apply to the Authority for the development or variation of a standard.
- (2) The application must:
- (a) be in writing; and
 - (b) contain the information required by the Authority; and
 - (c) be in a form approved by the Authority.
- (3) The applicant must provide, at the request of the Authority, a sample of the food to which the application relates, in such amount and in such manner as is specified by the Authority.

Authority to make preliminary assessment of application

13. (1) The Authority must make a preliminary assessment of the application.
- (2) In making a preliminary assessment of the application, the Authority must have regard to the following matters:
- (a) whether the application relates to a matter that may be developed as a standard, or that warrants a variation of a standard, as the case requires;
 - (b) whether the application is so similar to a previous application for the development or variation of a standard that it ought not to be accepted;
 - (c) whether the application contains the information required under subsection 12 (2);
 - (d) any other relevant matters.
- (3) After making a preliminary assessment of the application, the Authority must accept or reject the application.
- (4) The Authority must:
- (a) if the Authority accepts the application - notify the applicant in writing:
 - (i) that the application has been so accepted; and
 - (ii) that the Authority will make a full assessment of the application; and
 - (iii) that the applicant may make written submissions to the Authority on matters relevant to the application within a specified period; and
 - (b) if the Authority rejects the application - notify the applicant in writing that it has been so rejected and give reasons for the rejection.

Authority to invite public submissions

14. (1) After accepting the application, the Authority must:
- (a) by writing sent to each appropriate government agency; and
 - (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice:
 - (c) stating that the Authority has received an application for the development or variation of a standard, as the case requires, on a date specified in the notice; and
 - (d) stating that the Authority has made a preliminary assessment of the application and, after so doing, has accepted the application; and
 - (e) stating that the Authority will make a full assessment of the application; and
 - (f) stating how further information about the application may be obtained; and
 - (g) inviting written submissions to the Authority on matters relevant to the application within a specified period.
- (2) If the Authority considers it appropriate, it may give to any body or person notice in writing in the same terms as a notice given under subsection (1).

Full assessment of application

15. (1) The Authority must make a full assessment of an application that it accepts under section 13.
- (2) In making a full assessment of the application, the Authority must have regard to:
- (a) any submissions made to it within the specified period in response to a notice sent or published under section 13 or 14; and
 - (b) the objectives listed in section 10; and
 - (c) any relevant New Zealand standards; and
 - (d) any other relevant matters.
- (3) After making a full assessment of the application, the Authority must:
- (a) prepare in writing a draft standard or a draft variation of a standard, as the case requires; or
 - (b) reject the application.

Notice following preparation of draft standard or variation

16. If, under section 15, the Authority prepares a draft standard or a draft variation of a standard, it must:

- (a) by writing sent to the applicant, to each appropriate government agency, and to each other body or person who made a submission in response to a notice sent or published under section 14; and
- (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice:
- (c) stating that the Authority has prepared a draft standard or a draft variation of a standard; and
- (d) stating how further information about that draft may be obtained; and
- (e) stating that the Authority will hold an inquiry to consider that draft; and
- (f) inviting written submissions to the Authority for the purpose of that inquiry within a specified period.

Notice following rejection of application

17. If, under section 15, the Authority rejects an application, it must:

- (a) by writing sent to the applicant, to each appropriate government agency, and to each other body or person who made a submission in response to a notice sent or published under section 14; and
- (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice that the Authority has decided to reject the application and give reasons for its decision.

Authority must make recommendation to Council

18. (1) After holding an inquiry to consider a draft standard or a draft variation of a standard, the Authority must recommend to the Council:

- (a) that it adopt the draft standard or the draft variation of the standard; or
- (b) that it adopt the draft standard or the draft variation of the standard subject to such amendments as the Authority considers necessary; or
- (c) that it reject the draft standard or the draft variation of the standard; and give the Council its reasons for making that recommendation.

(2) If, because of the adoption by the Council of a recommendation under paragraph (1) (a) or (b) in relation to a draft standard or a draft variation of a standard, another standard would be wholly or partly superseded, the recommendation to the Council must include:

- (a) if the standard would be wholly superseded - a recommendation that the standard be revoked; or

- (b) if the standard would be partly superseded - a recommendation that the standard be varied in the manner set out in the recommendation.

Authority must notify outcome of inquiry

19. (1) After holding an inquiry to consider a draft standard or a draft variation of a standard, the Authority must:

- (a) by writing sent to the applicant, to each appropriate government agency, and to each other body or person who made a submission in response to a notice sent or published under section 16; and
- (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice setting out the nature of the recommendation made to the Council.

(2) The Authority must state in a notice given under subsection (1) how further information about the recommendation, and the reasons for it, may be obtained.

Council must deal with recommendation made by Authority

20. (1) After considering a recommendation made to it by the Authority under section 18, the Council must:

- (a) adopt the draft standard or the draft variation of the standard; or
- (b) make any amendments that it considers necessary to the draft standard or the draft variation of the standard and adopt the draft as so amended; or
- (c) reject the draft standard or the draft variation of the standard; or
- (d) return the draft standard or the draft variation of the standard to the Authority for reconsideration in whole or in part by the Authority.

(2) If, in relation to a draft standard or a draft variation of a standard, the Authority recommends the revocation or variation of another standard under subsection 18 (2), the Council must:

- (a) if it adopts the draft - revoke or vary the other standard accordingly; or
- (b) if it amends the draft - revoke the other standard, or vary it to the extent that the Council considers necessary; or
- (c) if it rejects the draft - reject the revocation or variation of the other standard; or
- (d) if it returns the draft to the Authority for reconsideration - also return the recommendation relating to the other standard to the Authority for reconsideration.

(3) If the Council is of the opinion that it needs more information to enable it to consider a recommendation, the Council may request the Authority to provide it with such further information as is specified in the request.

Division 2 - Proposals by the Authority for the development and variation of standards

Authority may prepare proposal for development or variation of a standard

21. (1) The Authority may, on its own initiative, prepare a proposal for the development or variation of a standard.

(2) The proposal must be in writing.

Authority to invite public submissions on proposal

22. (1) After preparing a proposal for the development or variation of a standard, the Authority must:

- (a) by writing sent to each appropriate government agency; and
- (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice:
 - (c) stating that the Authority has prepared a proposal for the development or variation of a standard; and
 - (d) stating that the Authority will make a full assessment of the proposal; and
 - (e) stating how information about the proposal may be obtained; and
 - (f) inviting written submissions to the Authority on matters relevant to the proposal within a specified period.

(2) If the Authority considers it appropriate, it may give to any body or person notice in writing in the same terms as a notice given under subsection (1).

Full assessment

23. (1) The Authority must make a full assessment of a proposal.

(2) In making a full assessment of the proposal, the Authority must have regard to:

- (a) any submissions made to it within the specified period in response to a notice sent or published under section 22; and
- (b) the objectives listed in section 10; and
- (c) any relevant New Zealand standards; and
- (d) any other relevant matters.

(3) After making a full assessment of the proposal, the Authority must:

- (a) prepare in writing a draft standard or a draft variation of a standard, as the case requires; or

- (b) abandon the proposal.

Notice following preparation of draft standard or variation

24. If, under section 23, the Authority prepares a draft standard or a draft variation of a standard, it must:

- (a) by writing sent to each appropriate government agency, and to each other body or person who made a submission in response to a notice sent or published under section 22; and
- (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice:
- (c) stating that the Authority has prepared a draft standard or a draft variation of a standard; and
- (d) stating how further information about that draft may be obtained; and
- (e) stating that the Authority will hold an inquiry to consider that draft; and
- (f) inviting written submissions to the Authority for the purpose of that inquiry within a specified period.

Notice following abandonment of proposal

25. If, under section 23, the Authority abandons a proposal, it must:

- (a) by writing sent to each appropriate government agency, and to each other body or person who made a submission in response to a notice sent or published under section 22; and
- (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice that the Authority has decided to abandon the proposal and give reasons for its decision.

Authority must make recommendation to Council

26. (1) After holding an inquiry to consider a draft standard or a draft variation of a standard, the Authority must recommend to the Council:

- (a) that it adopt the draft standard or the draft variation of the standard; or
- (b) that it adopt the draft standard or the draft variation of the standard subject to such amendments as the Authority considers necessary; or
- (c) that it reject the draft standard or the draft variation of the standard; and give the Council its reasons for making that recommendation.

(2) If, because of the adoption by the Council of a recommendation under paragraph (1) (a) or (b) in relation to a draft standard or a draft variation of a standard, another standard would be wholly or partly superseded, the recommendation to the Council must include:

- (a) if the standard would be wholly superseded - a recommendation that the standard be revoked; or
- (b) if the standard would be partly superseded - a recommendation that the standard be varied in the manner set out in the recommendation.

Authority must notify outcome of inquiry

27. (1) After holding an inquiry to consider a draft standard or a draft variation of a standard, the Authority must:

- (a) by writing sent to each appropriate government agency, and to each other body or person who made a submission in response to a notice sent or published under section 24; and
- (b) by advertisement published in the Gazette and in a newspaper circulating in each State or Territory; give notice setting out the nature of the recommendation made to the Council.

(2) The Authority must state in a notice given under subsection (1) how further information about the recommendation, and the reasons for it, may be obtained.

Council must deal with recommendation made by Authority

28. (1) After considering a recommendation made to it by the Authority under section 26, the Council must:

- (a) adopt the draft standard or the draft variation of the standard; or
- (b) make any amendments that it considers necessary to the draft standard or the draft variation of the standard and adopt the draft as so amended; or
- (c) reject the draft standard or the draft variation of the standard; or
- (d) return the draft standard or the draft variation of the standard to the Authority for reconsideration in whole or in part by the Authority.

(2) If, in relation to a draft standard or a draft variation of a standard, the Authority recommends the revocation or variation of another standard under subsection 26 (2), the Council must:

- (a) if it adopts the draft - revoke or vary the other standard accordingly; or
- (b) if it amends the draft - revoke the other standard, or vary it to the extent that the Council considers necessary; or
- (c) if it rejects the draft - reject the revocation or variation of the other standard; or
- (d) if it returns the draft to the Authority for reconsideration - also return the recommendation relating to the other standard to the Authority for reconsideration.

(3) If the Council is of the opinion that it needs more information to enable it to consider a recommendation, the Council may request the Authority to provide it with such further information as is specified in the request.

Division 3 - Miscellaneous

Inquiries may include public hearings

29. (1) An inquiry may, at the discretion of the Authority, include a public hearing.
- (2) Where an inquiry includes a public hearing, the Authority, having regard to the confidential nature of any evidence or matter or for any other reason, may direct that any part of the hearing be held in private and determine who may attend.
- (3) The Authority may give directions prohibiting or restricting the publication of evidence given at an inquiry, whether in public or in private, or of matters contained in documents produced at an inquiry.

General conduct of inquiries

30. Subject to this Act, in an inquiry:
- (a) the procedure to be followed is within the Authority's discretion; and
 - (b) the Authority:
 - (i) is not bound to act in a formal manner; and
 - (ii) is not bound by the rules of evidence; and
 - (iii) may inform itself on any matter in such manner as it thinks fit; and
 - (iv) may receive written or oral information or submissions; and
 - (v) may consult with such persons as it thinks fit.

Reconsideration of draft standard or variation by Authority

31. (1) If, under paragraph 20 (1) (d) or 28 (1) (d), the Council returns a draft standard or a draft variation of a standard to the Authority for reconsideration, the Authority must undertake that reconsideration as soon as practicable but not later than 12 months or such shorter period as may be prescribed for the purpose of subsection 35 (1) after the return of the draft.
- (2) A reconsideration of a draft standard or a draft variation may be conducted in any manner the Authority considers appropriate.
- (3) After undertaking a reconsideration of a draft standard or a draft variation of a standard, the Authority must recommend to the Council:
- (a) that it adopt the draft standard or the draft variation of the standard; or
 - (b) that it adopt the draft standard or the draft variation of the standard subject to such amendments as the Authority considers necessary; or

- (c) that it reject the draft standard or the draft variation of the standard; and that recommendation must be dealt with by the Council as if it were a recommendation under section 18 or 26.

(4) Where the Authority makes a recommendation under paragraph (3) (a) or (b), it must include in the recommendation any matters of a kind referred to in subsection 18 (2) or 26 (2), whichever is appropriate.

Authority to publish a standard or variation in the Gazette

32. (1) As soon as practicable after the Council, under section 20 or 28:
- (a) adopts a draft standard or a draft variation of a standard; or
 - (b) makes any amendments that it considers necessary to a draft standard or a draft variation of a standard and adopts the draft as so amended; the Authority must:
 - (c) cause a copy of the draft or the draft as so amended to be published in the Gazette; and
 - (d) specify in the Gazette the date no later than which the draft or the draft as so amended is to take effect.
- (2) If, because of the adoption by the Council:
- (a) of a draft standard or a draft variation of a standard; or
 - (b) of a draft standard, or a draft variation of a standard, that has been amended by the Council; another standard is wholly or partly superseded, a notice published under subsection (1) must:
 - (c) where the other standard has been revoked because it is wholly superseded - identify the other standard; or
 - (d) where the other standard has been varied because it is partly superseded - set out the particulars of the variation.

Review of standards

33. (1) The Authority may review a standard at the request of a body or person, or on its own initiative, in such manner as the Authority considers appropriate.

(2) As soon as practicable after the Authority has reviewed a standard, it must prepare a proposal for the development of a standard in substitution for the standard that has been reviewed.

(3) When the Authority prepares a proposal under this section, sections 22 to 28 apply in relation to that proposal.

Authority may require further information

34. (1) If the Authority is of the opinion that it needs more information to enable a preliminary or full assessment of an application for the development or variation of a standard to be properly

made, it may request the applicant to provide it with such further information as is specified in the request within such reasonable time as is specified in the request.

(2) If the applicant refuses or fails to comply with the request, without reasonable excuse, the application is taken to have been withdrawn.

Authority to make recommendations to Council within a certain time

35. (1) If the Authority prepares a draft standard or a draft variation of a standard, it must make a recommendation to the Council concerning that draft standard or variation within 12 months or such shorter period as may be prescribed after the receipt of the application that gave rise to that draft standard or variation.

(2) The Authority may extend the period within which the Authority may make a recommendation to the Council if it is not practicable for that recommendation to be made within that period.

(3) The maximum period for which an extension may be given under subsection (2) is 6 months.

(4) If the Authority requests an applicant under section 34 to provide it with further information, the time taken by the applicant to provide the information needed by the Authority to enable it to properly make a preliminary or a full assessment of the application, is not to be included in the period set or prescribed for the purpose of subsection (1) or set for the purpose of subsection (3).

Authority may simplify application or proposal procedure

36. (1) If the Authority is satisfied that:

- (a) an application made under section 12 or a proposal prepared under section 21 raises issues of minor significance or complexity only; and
- (b) to omit to do any one or more of the matters that the Authority is required to do under this Part in relation to that application or proposal will not adversely affect the interests of any person or body; the Authority may decide, in writing, to omit to do that matter or those matters and, if it so decides, must cause notice of its decision to be published in the Gazette and in a newspaper circulating in each State or Territory.

(2) For the purpose of facilitating a decision made by the Authority in respect of an application or proposal referred to in subsection (1), the regulations may provide for the application of the provisions, or of specified provisions, of this Part, subject to such modifications and adaptations (if any) as are prescribed, in relation to that application or proposal.

Authority may make recommendation as a matter of urgency

37. (1) If the Authority considers that a recommendation should be made to the Council as a matter of urgency in relation to:

- (a) an application made under section 12; or

- (b) a proposal prepared under section 21; in order to avoid compromising the objectives set out in section 10, the Authority may decide, in writing, to omit to do any one or more of the matters that it is required to do under this Part in relation to that application or proposal.

(2) For the purpose of facilitating a decision made by the Authority in respect of an application or proposal referred to in subsection (1), the regulations may provide for the application of the provisions, or of specified provisions, of this Part, subject to such modifications and adaptations (if any) as are prescribed, in relation to that application or proposal.

(3) If the Council has:

- (a) adopted a draft standard, or a draft variation of a standard, developed by the Authority under this section without holding an inquiry; or
- (b) made any amendments it considers necessary to the draft standard, or the draft variation of the standard, as so developed by the Authority and adopted the draft as so amended; then, as soon as practicable after that adoption, the Authority must hold an inquiry, under section 16 or 24, whichever is appropriate, into the standard or variation as so adopted, or as so amended and adopted, by the Council in the same manner as if that standard or variation as so adopted:
- (c) had been the subject of a full assessment under section 15 or 23; and
- (d) were a draft standard or variation prepared under that section.

Arrangements with other Commonwealth Departments, States and Territories

38. The Authority may make arrangements:

- (a) with the Secretary of a Department of the Australian Public Service or the Chief Officer of any Commonwealth authority; or
- (b) with the Secretary of a Department of the Public Service of a State or Territory, or the Chief Officer of a State or Territory authority; or
- (c) with the Chief Officer of any other authority or body; for:
- (d) the services of officers or employees in those Departments, authorities or bodies to be made available to the Authority; or
- (e) officers or employees in those Departments, authorities or bodies to give advice to the Authority.

Confidential commercial information

39. (1) It is the duty of a person who is a member of the Authority, a member of the staff of the Authority, a member of a committee or a person engaged as a consultant under section 54 not to disclose any confidential commercial information in respect of food that has been acquired by the person because of being such a member or consultant.

(2) Subsection (1) does not apply to anything done in the performance of duties, or in the exercise of powers or functions, under this Act.

(3) Subsection (1) does not preclude the disclosure of confidential commercial information in respect of food to a court in any proceeding but the court must do all things necessary to prevent disclosure of that information to any other person otherwise than for the purpose of the proceedings.

(4) Despite subsection (1), the Chairperson may, in respect of confidential commercial information acquired in respect of food by a member of the Authority, a member of the staff of the Authority, a member of a committee, or a person engaged as a consultant under section 54, because of being such a member or consultant:

- (a) if the Minister certifies, by instrument, that it is necessary in the public interest that the information should be disclosed to a specified person - disclose that information to that person; or
- (b) disclose that information to any prescribed authority or person; or
- (c) disclose that information to a person who, in the opinion of the Chairperson, is expressly or impliedly authorised to obtain that information by the applicant for the development or variation of a standard, in respect of the food concerned.

(5) The Chairperson must not disclose any confidential commercial information under paragraph (4) (a) in respect of food unless he or she:

- (a) has advised the applicant, in writing, of his or her intention to disclose the information and of the reasons for disclosing that information; and
- (b) has given the applicant a reasonable opportunity to communicate any views which the applicant has concerning the proposed disclosure of that information; and
- (c) has taken into account any views so communicated.

(6) Any authority or person to whom information is disclosed under subsection (4), and any person under the control of that authority or person, is, in respect of that information, subject to the same obligations as if that authority or person were a person referred to in subsection (1) who had acquired the information in the circumstances set out in subsection (1).

(7) Despite subsection (1), the Chairperson may permit confidential commercial information in respect of food to be disclosed:

- (a) to the Secretary of a Department of the Australian Public Service or the Chief Officer of a Commonwealth authority for the purpose of enabling the Department or authority to perform any arrangements made with the Authority in accordance with paragraph 38 (a); or
- (b) to the Secretary of a Department of the Public Service of a State or Territory or the Chief Officer of a State or Territory authority for the purpose of enabling the Department or authority to perform any arrangements made with the Authority in accordance with paragraph 38 (b); or
- (c) to the Chief Officer of any other authority or body for the purpose of enabling that authority or body to perform any arrangements made with the Authority in accordance with paragraph 38 (c).

(8) A person to whom information is disclosed under subsection (7) and any person under the control of the first-mentioned person to whom that information is disclosed for the purposes of an arrangement under section 38, must not, directly or indirectly, except for the purposes of that arrangement, disclose the information to any person while the person is, or after the person ceases to be, such a person.

Penalty: Imprisonment for 2 years.

(9) The powers conferred by subsection (7) are in addition to, and not in derogation of, the powers conferred by subsection (4).

(10) Nothing in subsection (4) or (7) is taken to limit the generality of subsection (3) or the operation of subsection (2).

(11) In this section:

“Chief Officer” means:

- (a) in relation to a Commonwealth, State or Territory authority, whether a member of that authority or not - the person who has the responsibility of Executive Officer or Chief Executive Officer of that authority; and
- (b) in relation to any other authority or body - the person who has the responsibility for the day to day management of that authority or body;

“committee” includes the Food Advisory Committee;

“court” includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

PART 4 - CONSTITUTION, MEETINGS AND STAFF OF AUTHORITY

Constitution of Authority

40. (1) The Authority consists of:

- (a) a Chairperson; and
- (b) a member who is an officer of a State or Territory authority having responsibility for matters relating to public health; and
- (c) a member who has a background in consumer rights; and
- (d) 2 other members; and
- (e) such other members, if any, as are appointed for a special purpose.

(2) Each member is to be appointed by the Minister after the Minister has consulted with the Council.

(3) The Minister may only appoint a person as the Chairperson or as a member mentioned in paragraph (1) (d) if the Minister is satisfied that the person is suitably qualified for appointment because of experience or expertise in one or more of the following fields:

- (a) public health;
- (b) food science;
- (c) human nutrition;
- (d) food production or retailing;
- (e) public administration;
- (f) consumer rights.

(4) The Minister may only appoint a person as a member mentioned in paragraph (1) (b) if the Minister is satisfied that the person has a good knowledge of food regulation systems in Australia.

(5) The Minister may only appoint a person as a member mentioned in paragraph (1) (c) if the Minister is satisfied that the person has a good knowledge of consumer rights and consumer affairs policy in Australia.

(6) The Minister may only appoint a person as a member mentioned in paragraph (1) (e) for a special purpose if the Minister is satisfied, on the advice of the Chairperson, that the person has special experience or expertise relevant to the purpose for which the member is to be appointed.

(7) The Chairperson is to be appointed as a full-time member and the other members are to be appointed as part-time members.

(8) The members hold office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister in writing.

(9) The performance of a function or the exercise of a power by the Authority is not affected by a vacancy or vacancies in the membership of the Authority.

Appointment of members

41. (1) Each member, other than a special purpose member, is to be appointed with effect from such day as the Minister specifies in the instrument of appointment of that member.

(2) Subject to this Part, a member other than a special purpose member holds office for the period, not exceeding 5 years, specified in the instrument of appointment.

- (3) Each special purpose member:
 - (a) is appointed only until the special purpose specified in the instrument of his or her appointment has been completed; and
 - (b) is a member of the Authority only during any period when the Authority is actually undertaking that special purpose.
- (4) A person appointed as a member is eligible for reappointment.

Food Advisory Committee

42. (1) The Authority must establish a committee to be known as the National Food Authority Advisory Committee.

(2) The function of the Food Advisory Committee is to advise the Authority on matters referred to it by the Authority, the Commonwealth, the States and the Territories.

(3) The Food Advisory Committee is not to advise on an application for the development or variation of a standard, being an application under consideration by the Authority, unless the application or any aspect of it has been referred to the Committee by the Authority.

(4) The Food Advisory Committee consists of:

- (a) a Chairperson, being the Chairperson of the Authority; and
- (b) one member nominated by the Department of Community Services and Health; and
- (c) one member nominated by Department of Primary Industries and Energy; and
- (d) a member nominated by each State, each Territory and New Zealand; and
- (e) such other members, if any, as are appointed by the Chairperson for a specific purpose.

(5) The Food Advisory Committee must meet at least twice every 12 months but, subject to that requirement, the procedure for the conduct of the business of the Committee is to be as determined by the Committee.

Committees other than the Food Advisory Committee

43. (1) The Authority may establish such other committees as it thinks fit to assist it in carrying out its functions, and may abolish any such committee.

(2) A committee established under this section consists of such persons (whether members of the Authority or not) as the Authority from time to time appoints.

(3) The Authority may give to a committee established under this section such directions as it thinks fit, including:

- (a) directions as to the manner in which the committee is to carry out its functions; and
- (b) directions with respect to the procedure to be followed in relation to meetings of the committee, including directions with respect to:
 - (i) the convening of meetings of the committee; and
 - (ii) the number of members of the committee to constitute a quorum; and
 - (iii) the appointment of a member of the committee to preside at meetings of the committee; and
 - (iv) the manner in which questions arising at a meeting of the committee are to be decided; and

- (v) the voting rights of members of the committee; and
- (vi) the disclosure of members' interests in matters being considered by the committee.

Remuneration and allowances

44. (1) This section applies to members of the Authority, of the Food Advisory Committee and of other committees.
- (2) Subject to subsection (3), a person to whom this section applies is to be paid:
- (a) such remuneration as is determined by the Remuneration Tribunal but, if no determination of that Tribunal is in force, such remuneration as is prescribed; and
 - (b) such allowances as are prescribed.
- (3) If a person to whom this section applies is also:
- (a) in the service or employment of, or of an authority of, the Commonwealth, a State or a Territory on a full-time basis; or
 - (b) a person who holds or performs the duties of an office or position established by or under a law of the Commonwealth, a State or a Territory on a full-time basis; the person is not entitled to remuneration under this Act.
- (4) This section has effect subject to the Remuneration Tribunal Act 1973.

Leave of absence of members

45. (1) The Minister may grant leave of absence to the Chairperson on such terms and conditions as the Minister determines.
- (2) The Chairperson may grant leave of absence to any other member on such terms and conditions as the Chairperson determines.

Acting appointments

46. (1) The Minister may appoint a person to act as the Chairperson:
- (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.
- (2) The Minister may appoint a person other than the Chairperson to act as a member other than a special purpose member:
- (a) during a vacancy in the office of that member, whether or not an appointment has previously been made to the office; or

- (b) during any period, or during all periods, when that member is absent from Australia or is, for any reason, unable to perform the duties of the office.
- (3) Anything done by a person purporting to act under an appointment under this section is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in or in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

Meetings

47. (1) The Authority is to hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chairperson:
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting on receipt of a written request signed by not less than 3 other members.
- (3) The Chairperson is to preside at all meetings at which he or she is present.
- (4) If the Chairperson is not present at a meeting, the members present must appoint one of their number other than a special purpose member to preside.
- (5) A majority of the members for the time being of the Authority as constituted in a particular manner constitute a quorum for the Authority as so constituted.
- (6) Questions arising at a meeting of the Authority as constituted in a particular manner are to be determined by a majority of the votes of the members of the Authority as so constituted present and voting.
- (7) The person presiding at a meeting of the Authority has a deliberative vote and, if necessary, also has a casting vote.

Conduct of meetings

48. (1) The Authority may, subject to this Part, regulate proceedings at its meetings as it considers appropriate.
- (2) Without limiting subsection (1), the Authority may permit members to participate in a particular meeting, or all meetings, by:
 - (a) telephone; or
 - (b) closed-circuit television; or

(c) any other means of communication.

(3) A member who is permitted to participate in a meeting under subsection (2) is to be regarded as being present at that meeting.

Resolutions without formal meetings

49. Where the Authority so determines, a resolution is taken to have been passed at a meeting of the Authority if:

- (a) without meeting, a majority of the number of members indicate agreement with the resolution in accordance with the method determined by the Authority; and
- (b) that majority would, if present at a meeting of the Authority, have constituted a quorum under subsection 47 (5).

Disclosure of interests

50. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Authority must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) The disclosure is to be recorded in the minutes of the meeting and the member must not, unless the Authority or the Minister otherwise determines:

- (a) be present during any deliberation of the Authority with respect to that matter; or
- (b) take part in any decision of the Authority with respect to that matter.

(3) For the purpose of the making by the Authority of such a determination in relation to the member who has made the disclosure, any member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Authority for the purpose of making the determination; or
- (b) take part in the making by the Authority of the determination.

(4) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority in accordance with section 49 must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of that interest to the Minister.

Resignation

51. A member may resign by instrument in writing delivered to the Minister.

Termination of appointment

52. (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.
- (2) If:
- (a) a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) a member fails, without reasonable excuse, to comply with section 50; or
 - (c) a member, being the Chairperson:
 - (i) engages, except with the approval of the Minister, in paid employment outside the duties of his or her office; or
 - (ii) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months; or
 - (d) a member, other than the Chairperson or a special purpose member:
 - (i) engages in any paid employment that, in the Minister's opinion, conflicts with the proper performance of the member's functions; or
 - (ii) is absent, except on leave of absence granted under subsection 45 (2), from 3 consecutive meetings of the Authority; or
 - (e) a special purpose member is absent, except on leave of absence granted under subsection 45 (2), from 3 consecutive meetings of the Authority convened to deal with matters relating to that special purpose; the Minister may terminate the appointment of the member.

Staff of Authority

53. (1) The staff of the Authority are persons appointed or employed under the Public Service Act 1922.

(2) The Chairperson has all the powers of a Secretary under the Public Service Act 1922, so far as they relate to the branch of the Australian Public Service comprising the staff of the Authority, as if that branch were a separate Department of the Australian Public Service.

Consultants

54. (1) The Authority may engage as consultants persons having suitable qualifications and experience.

(2) The terms and conditions of engagement of consultants are such as are determined by the Authority.

Money to be appropriated

55. (1) There is payable to the Authority such money as is from time to time appropriated by the Parliament for the purposes of the Authority.

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Authority.

Estimates

56. (1) The Authority must:

(a) prepare estimates of the receipts and expenditure of the Authority in such form as the Minister directs for:

(i) each financial year; and

(ii) any other period specified by the Minister; and

(b) lodge estimates with the Minister within such time as the Minister directs.

(2) Estimates under subsection (1) are not to include estimates of receipts or expenditure of trust money.

(3) The money of the Authority, other than trust money, is to be expended only in accordance with estimates of expenditure approved by the Minister.

Money of Authority

57. (1) The money of the Authority consists of:

(a) money paid to the Authority under section 55; and

(b) any other money, other than trust money, paid to the Authority.

(2) The money of the Authority is to be applied only:

(a) in payment or discharge of the expenses, obligations and liabilities of the Authority arising under this Act; and

(b) in payment of remuneration and allowances payable under this Act; and

(c) in making any other payments required or permitted to be made by the Authority.

Taxation

58. The Authority is not subject to taxation under any law of the Commonwealth, of a State or of a Territory.

Application to the Authority of Division 3 of Part XI of Audit Act

59. (1) The Authority is a public authority to which Division 3 of Part XI of the Audit Act 1901 applies.

(2) For the purposes of the application to the Authority of Division 3 of Part XI of the Audit Act 1901 under subsection (1), a reference in that Division to the appropriate Minister is a reference to the Minister of State administering this Act.

Trust money

60. (1) The Authority:

- (a) may receive money from any body or person on trust for application towards a particular purpose consistent with the functions of the Authority; and
- (b) must pay trust money into an account or accounts referred to in subsection 63J (1) of the Audit Act 1901 (as that subsection applies under subsection 59 (1)) containing no money other than trust money; and
- (c) must apply or deal with trust money only in accordance with the powers and duties of the Authority as trustee; and
- (d) may only invest trust money:
 - (i) in any manner in which the Authority is authorised to invest the money by the terms of the trust; or
 - (ii) in any manner in which trust money may be lawfully invested.

(2) Sections 63K and 63L of the Audit Act 1901 (as those sections apply under subsection 59 (1)) have effect as if:

- (a) a reference in those sections to moneys included a reference to trust money; and
- (b) a reference in those sections to transactions, or to transactions and affairs, included a reference to transactions, or to transactions and affairs, relating to trust money.

PART 6 - MISCELLANEOUS

False or misleading information or evidence

61. (1) A person must not:

- (a) give to the Authority information (whether orally or in writing) or documents that the person knows to be false or misleading in a material particular; or
- (b) at an inquiry, give evidence, or produce a document, that the person knows to be false or misleading in a material particular.

Penalty: \$2,000.

(2) Subsection (1) does not apply to a document that is false or misleading in a material particular if, at the time when the person gives it to the Authority, or produces it at an inquiry, the person informs the Authority that it is, to the person's knowledge, false or misleading in that material particular.

Documents and samples become Commonwealth property

62. All documents and samples given to the Authority for any purpose of this Act or produced at an inquiry become, upon being so given or produced, the property of the Commonwealth and may, subject to section 39, be dealt with or disposed of in any manner that the Authority considers appropriate.

Review of decisions

63. (1) Subject to the Administrative Appeals Tribunal Act 1975, application may be made to the Administrative Appeals Tribunal:

- (a) by an applicant for the development or variation of a standard for review of:
 - (i) a decision by the Authority under section 13 to reject the application; or
 - (ii) a decision by the Authority under section 15 to reject the application; or
- (b) for review of a decision under section 36 to omit a matter or matters.

(2) In subsection (1), "decision" has the same meaning as in the Administrative Appeals Tribunal Act 1975.

Statement accompanying notification of decisions

64. (1) Where:

- (a) notice in writing of the making of a decision of a kind referred to in paragraph 63 (1) (a) is given to an applicant; or
- (b) notice of the making of a decision of the kind referred to in paragraph 63 (1) (b) is published in the Gazette; that notice must include a statement to the effect that:
- (c) subject to the Administrative Appeals Tribunal Act 1975, application may be made to the Administrative Appeals Tribunal for review of the decision:
 - (i) if it is a decision of a kind referred to in paragraph 63 (1) (a) - by the applicant; or
 - (ii) if it is a decision of the kind referred to in paragraph 63 (1) (b) - by a person whose interests are affected by the decision; and
- (d) except where subsection 28 (4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of that person for a statement in writing setting out the findings of material questions of fact, referring to the evidence or other materials on which those findings were based and giving the reasons for the decision.

(2) Any failure to comply with a requirement of subsection (1) in relation to a decision does not affect the validity of the decision.

Conduct by directors, servants or agents

65. (1) Where it is necessary, for the purposes of this Act, to establish the state of mind of a body corporate in respect of conduct engaged in, or taken by subsection (2) to have been engaged in, by the body corporate, it is sufficient to show that a director, servant or agent of the body corporate, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(2) Any conduct engaged in on behalf of a body corporate:

- (a) by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent; is taken, for the purposes of this Act, to have been engaged in also by the body corporate.

(3) Where it is necessary, for the purposes of this Act, to establish the state of mind of a person in relation to conduct taken by subsection (4) to have been engaged in by the person, it is sufficient to show that a servant or agent of the person, being a servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(4) Conduct engaged in on behalf of a person other than a body corporate:

- (a) by a servant or agent of the person within the scope of his or her actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first-mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent; is taken, for the purposes of this Act, to have been engaged in also by the first-mentioned person.

(5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

(6) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

Fees

66. (1) The regulations may prescribe fees, or a method of calculating fees, to be paid to the Commonwealth by a person or body in respect of a service provided to that person or body in the performance of the Authority's functions.

(2) Fees prescribed are due and payable in such manner and at such time or times as are prescribed.

(3) The regulations may prescribe circumstances in which the Authority may, in its discretion, on behalf of the Commonwealth, waive fees that would otherwise be payable under this section.

Delegation by Authority

67. The Authority may, by signed instrument, delegate to a member of the Authority, or to a member of the staff of the Authority, all or any of its powers under this Act.

Exemption from suit

68. (1) No action or proceeding lies against the Commonwealth, a member of the Authority or a person assisting the Authority in the performance of its functions for any loss or injury directly or indirectly sustained because of the consumption of, or other dealing with, food in respect of which a standard has been adopted by the Council and published in the Gazette.

(2) In an action against a person in relation to any loss or injury directly or indirectly sustained because of the consumption of, or other dealing with, food, it is not a defence to that action that a standard has been adopted and published in respect of that food and that the food complies with the standard.

Annual Report

69. The Authority must include in each report prepared under section 63M of the Audit Act 1901 (as that section applies to the Authority under subsection 59 (1)) particulars of:

- (a) the number of applications made to the Authority under section 12 during that year; and
- (b) the number of applications so made that were disposed of during that year and the manner of their disposal; and
- (c) the number of proposals made by the Authority under section 21 during that year; and
- (d) the number of proposals so made that were disposed of during that year and the manner of their disposal; and
- (e) any occasion during that year that the Authority, after preparing a draft standard or a draft variation of a standard, failed to make a recommendation to the Council within the period required under section 35 and a statement of the reasons for that failure; and
- (f) each extension of time granted by the Authority under subsection 35 (2) during that year and the reasons for that extension; and
- (g) the number of applications made to the Administrative Appeals Tribunal during that year for review of decisions of the Authority; and

- (h) the results of the applications made to the Administrative Appeals Tribunal that were determined during that year.

Regulations

70. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Applications continue in force

71. (1) If, in respect of an application for the development of a standard or the variation of a standard:

- (a) the National Health and Medical Research Council (in this section called the "NHMRC") has not made a recommendation to the Council; or
- (b) the NHMRC or any other body or authority has not rejected the application; before the commencement of this Act, the application continues in force, after that commencement, as if this Act had been in force at the time the application was made and the application had been made to the Authority under this Act as so in force.

(2) The Authority, having regard to what the NHMRC or any other authority or body has done in relation to an application mentioned in subsection (1), may omit to do any one or more of the matters that it is required to do under Part 3 in relation to that application.

(3) If the Authority decides, in respect of an application mentioned in subsection (1), to prepare a draft standard or a draft variation of a standard, the Authority must make a recommendation to the Council in respect of that draft within 24 months after the day on which this Act commences.