



# FACT SHEET

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## Sale of Hemp Seed Oil as Food

### The Food (Safety) Regulations 2002

The New Zealand Food Safety Authority (NZFSA) is responsible for the administration of the Food (Safety) Regulations 2002, which came into effect on 20 December 2002. These regulations incorporate a specific permission for the legal sale of hemp seed oil as food in New Zealand.

### Background

Prior to the Food (Safety) Regulations 2002, hemp seed oil could be legally sold in New Zealand under the general provisions in the New Zealand Food Regulations 1984.

In 1995 the New Zealand Government entered into a treaty agreement<sup>1</sup> with the Government of Australia to establish a system for developing a joint food standards code. Food Standards Australia New Zealand (FSANZ), formerly the Australia New Zealand Food Authority (ANZFA), developed the Australia New Zealand Food Standards Code (the Food Standards Code) over several years, and following a two year transition period, the Food Standards Code came into full effect on 20 December 2002, with a further transitional period of two years to sell food produced and packaged prior to this date.

The New Zealand Food Regulations 1984 were revoked on 20 December 2002 at the time the Food Standards Code came into full effect, meaning all food for sale in New Zealand then needed to comply with the Food Standards Code. Unlike the Food Regulations, the Food Standards Code includes a prohibition on the sale of all parts of the cannabis plant under *Standard 1.4.4 - Prohibited Botanicals*. As a result, New Zealand would have had no legislation enabling the continuation of the sale of hemp seed oil after 20 December 2002 if no other action was taken.

In response to this situation, NZFSA developed provisions in the Food (Safety) Regulations 2002 as a transitional arrangement until such time as [either a New Zealand or] a joint standard might be incorporated into the Food Standards Code.

### Scope

The scope of the transitional provision relating to hemp is limited to hemp seed oil and it maintains the general provisions for hemp seed oil that existed under the New Zealand Food Regulations 1984 and before these were revoked, the Food Standards Code coming into full effect on 20 December 2002.

### Conditions

The Food (Safety) Regulations 2002 sets out the conditions for the production and sale of hemp seed oil for human consumption in New Zealand. Hemp seed oil produced or imported under the following conditions can be legally sold in New Zealand as a food or added to food products sold within New Zealand. These conditions are:

*"26 (2) (a) in the case of hemp seed oil that is produced in New Zealand, the hemp seed oil is derived from cannabis seed from plants that are grown in New Zealand under and in accordance with any conditions attached to a licence to cultivate industrial hemp issued by the Director-General of the Ministry of Health; and*

*26 (3) (b) in the case of hemp seed oil that is imported into New Zealand, the hemp seed oil must be tested by an analyst working in a laboratory approved under the Misuse of Drugs Act 1975 and has been authorised for sale and use."*

There are no current plans to review the scope of these Regulations. The matter would need to be considered within the joint Food Standards Setting process.

### Previous Proposal to FSANZ

In 2002, FSANZ consulted on an application for the use of industrial hemp as a novel food (Application A360). This application was submitted to the Australia and New Zealand Food Regulation Ministerial Council but not approved.

For New Zealand, the application presented several difficulties. The proposed standard provided that any parts of the cannabis plant wi

concentrations of delta 9-tetrahydrocannabinol (THC) could be added to food. This was inconsistent with the requirements prescribed by the Misuse of Drugs Act 1975. The Misuse of Drugs Act sets out specific controls in relation to cannabis or products containing THC in New Zealand. The proposed draft standard was prepared as a novel food, which has a precise definition under the Food Standards Code:

"a non-traditional food [a food which does not have a history of significant human consumption by the broad community in Australia or New Zealand] for which there is insufficient knowledge in the broad community to enable safe use in the form or context in which it is presented".

This definition could not apply to hemp seed oil because this product had been available for sale in New Zealand for many years.

### Hemp Food Products in the Food Supply: Changing Attitudes

There are differing attitudes towards the differentiation between hemp - which may contain no THC or THC below a level 0.35% (as set out under the Ministry of Health's License conditions and analysed by Environmental Science and Research - and the Cannabis Sativa plant. For sections of the community that support this differentiation, this appears to be changing attitudes towards hemp in the food supply. However, social attitudes are slow to change and there appears to be many other sections of the community that do not support this position, and who continue to associate hemp with the illegal drug, Cannabis Sativa.

### Current Food Opportunities for Hemp

There are a range of opportunities for the sale of hemp seed oil and other hemp products in New Zealand and these include:

- Domestic sale of New Zealand produced hemp seed oil based products (import substitution);
- Export sale of hemp seed oil (to countries where hemp seed oil is permitted to be sold);
- Domestic sale of hemp in animal fodder. Schedule 4 of the Agricultural Compounds and Veterinary Medicines Act does not prohibit the use of hemp in animal feed (for standing crops opened to animals grazing and oral nutritional compounds such as traded feed). NZFSA considers hemp grown in accordance with the Ministry of Health's hemp trial licenses THC is unlikely to breach Schedule 4.



For Further Information on hemp in animal fodder contact:

Agricultural Compounds and Veterinary Medicines Group

New Zealand Food Safety Authority

Telephone: 04 463 2500

### What's not legal?

Under the Food (Safety) Regulations it is not legal to sell any hemp-derived product other than hemp seed oil as a food or added to a food. Hemp related products that cannot be sold as food or added to food products in New Zealand include:

- Whole Hemp Seed
- Hemp Seed Nut
- Hemp Seed Protein

### Review of the Regulatory Framework for Hemp Licensing Trials

As noted above, the Misuse of Drugs Act prohibits the importation, possession and sale of Cannabis plants, seeds or products, unless an exempting licence is granted. The Minister of Health lifted the moratorium on the granting of licenses to grow industrial hemp in 2000. The cultivation of industrial hemp has been permitted since 2001. Long-term, however, there is a need for a legal framework for hemp cultivation that distinguishes between industrial hemp (none or residual THC below a level 0.35%) and illicit cannabis sativa. This would resolve difficulties relating to inconsistencies between regulatory frameworks.

Currently, Medsafe of the Ministry of Health, is reviewing the regulatory framework for hemp licensing trials and is proposing a stand-alone regulation for industrial hemp that would sit under the Misuse of Drugs Act. If this proposal proceeds it would provide a regulatory environment that would support any future review of the New Zealand (Safety) Regulations.

### Dietary Supplement Regulations 1985

Along with a wide range of edible substances, hemp seed oil products can be sold as a dietary supplement under the Dietary Supplement Regulations 1985 (the Regulations). The Regulations were intended to cover a range of vitamins and mineral products and other nutrients usually contained in tablet, capsule or powder form. However, since the regulations were put in place dietary supplements have evolved to include a wide range of products that are food-like (commonly referred to as food type dietary supplements), and that go beyond the original intention of the Regulations. As a result, there are examples of products sold as dietary supplements under the Regulations but marketed to the consumer as a food. NZFSA is currently reviewing



the Regulations and, as part of the review, is seeking to address this unclear distinction between foods sold under the Regulations and foods sold under the Food Standards Code.

## General Food Labelling Requirements under the Food Standards Code

Food sold in New Zealand must be labelled in accordance with the general food labelling requirements under the Food Standards Code.

NZFSA has prepared a number of fact sheets to assist those developing food labels. These can be found on the NZFSA website: [www.nzfsa.govt.nz](http://www.nzfsa.govt.nz)

## Health Claims

Health claims and therapeutic claims are currently not permitted on foods. There are prohibitions in the Food Standards Code, the Regulations and under the Medicines Regulations 1984 that would cover all foods for sale. However, health claims for food is currently under review, and once the process is complete, future health and nutrient claims will need to be consistent with the new framework.

Advice on claims which would be compliant with the Regulations, the Medicines Act, and the Advertising Standards Authority (ASA) Code for Therapeutic Advertising, can be obtained from the Therapeutic Advertising Pre-vetting Service.

Further information contact:

Advertising Standards Authority on 09 300 5932 or

Therapeutic Advertising Pre-vetting Service on 09 8362680

## What other Food Regulatory Requirements Apply in New Zealand?

There are a range of food regulatory requirements that apply in New Zealand. These include: the Food Act 1981 - all food for sale in New Zealand must comply with the Act; various New Zealand food safety regulations and food standards, and the Fair Trading Act 1986. For more information visit the NZFSA's website [www.nzfsa.govt.nz](http://www.nzfsa.govt.nz) or FSANZ's website [www.foodstandards.govt.nz](http://www.foodstandards.govt.nz)

## For further information contact:

New Zealand Food Safety Authority  
 Hotline: 0800 NZFSA1 (0800 693 721)  
[www.nzfsa.govt.nz](http://www.nzfsa.govt.nz)  
 PO Box 2835  
 WELLINGTON

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### PURPOSE of the INFORMATION, and DISCLAIMER

The information contained in this 'fact sheet' is provided for the purpose of giving a general understanding of the regulation of hemp seed oil as food to both consumers and industry personnel, and it is intended for general guidance only.

Every effort has been made to ensure that the information contained is accurate, however general information by its very nature cannot cover every specific to the degree of accuracy expected in the provision of professional advice. Reference should be placed on the wording of the legislation itself. This is available at the NZFSA website at [www.nzfsa.govt.nz](http://www.nzfsa.govt.nz) or from any government bookshop.

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