

3. *Agreement on the Adoption of Uniform Food Standards (1991)*

AGREEMENT

between

the COMMONWEALTH OF AUSTRALIA

the STATES

the NORTHERN TERRITORY OF AUSTRALIA

and the

AUSTRALIAN CAPITAL TERRITORY

in relation to the adoption
of uniform food standards

(1991)

Australian Government Solicitor
CANBERRA ACT 2600

AN AGREEMENT made the *thirtieth* day of *July*
thousand nine hundred and ninety one, between -

One

the COMMONWEALTH OF AUSTRALIA of the first part,
the STATE OF NEW SOUTH WALES of the second part,
the STATE OF VICTORIA of the third part,
the STATE OF QUEENSLAND of the fourth part,
the STATE OF WESTERN AUSTRALIA of the fifth part,
the STATE OF SOUTH AUSTRALIA of the sixth part,
the STATE OF TASMANIA of the seventh part,
the NORTHERN TERRITORY OF AUSTRALIA of the eighth part, and
THE AUSTRALIAN CAPITAL TERRITORY of the ninth part.

WHEREAS -

- (A) in recognition of the benefits of uniform food standards there has been for some time an agreement, known as the National Food Standards Agreement, between the parties, other than the Australian Capital Territory, ("the previous agreement");
- (B) Under the National Food Authority Act 1991 ("the Act") a National Food Authority is established with functions including the preparation and recommendation of food standards to the National Food Standards Council.

NOW IT IS HEREBY AGREED as follows:

PART I - INTERPRETATION

1. In this Agreement, unless a contrary intention appears -
 - (a) 'NFSC' means the National Food Standards Council continued in existence pursuant to clause 7;

- (b) 'party' means a party to this Agreement for the time being;
- (c) 'State' means a State that is at the relevant time a party to this Agreement;
- (d) 'the Commonwealth' means the Commonwealth of Australia as the party to this Agreement;
- (e) 'the food laws' means the laws regulating the packaging, labelling, sale and distribution of food;
- (f) 'the NFA' means the National Food Authority established by the Act;
- (g) 'the States' means all the States that are for the time being parties to this Agreement;
- (h) a reference to a State or the States shall be deemed to include a reference to the Northern Territory of Australia and to the Australian Capital Territory;
- (i) a reference to a clause is a reference to the relevant clause of this Agreement;
- (j) a reference to a sub-clause is a reference to the relevant sub-clause of the clause in which the reference appears or of such other clause as the reference indicates;
- (k) the singular includes the plural and vice versa.

PART II - OPERATION OF AGREEMENT

2. This Agreement, other than this clause, shall have no force or effect until the coming into operation of the Act.
3. (1) Upon this Agreement coming into force the previous agreement shall thereon cease to operate.
(2) This Agreement may be amended with the consent of all the parties.
4. In the event that a party withdraws from this Agreement pursuant to clause 17, the Agreement shall nevertheless continue in force with respect to the other parties.

PART III - ADOPTION OF FOOD STANDARDS

5. (1) Each State shall take such legislative or other steps as are necessary to adopt or incorporate, by reference and without amendments, as food standards in force under the food laws of the State, the food standards (including amendments of those standards) that are from time to time -
 - (a) prepared and recommended by the NFA to the NFSC;
 - (b) adopted with or without amendment by the NFSC; and
 - (c) published in the Commonwealth of Australia Gazette.such food standards to take effect not later than the date specified in the Gazette.

- (2) Subject to sub-clause (5), no State shall, subsequent to the steps taken pursuant to sub-clause (1), amend the food standards referred to in that sub-clause.
- (3) No State shall by legislation or other means establish or amend a food standard other than in accordance with this Agreement.
- (4) It is hereby agreed that a food standard adopted by the NFSC may include a provision in respect of a State or part of a State where NFA is satisfied that the provision is necessary because of exceptional environmental conditions in that State and that the provision would not present a risk to public health or safety.
- (5) Where a State determines that an issue affecting public health and safety requires a new food standard or amendment of a standard adopted pursuant to sub-clause (1) and that the circumstances affecting public health and safety would not allow time for the steps pursuant to sub-clause (1) to be taken, the State may adopt, under the food laws of the State, a new food standard or amend a standard so adopted, provided that:
 - (a) the State notifies the NFSC of its intention to adopt the new or amended food standard;
 - (b) the new or amended food standard applies for a period of no longer than six months from the date of its adoption; and
 - (c) the State makes, or so determining, an immediate application to the National Food Authority to adopt the new food standard or to amend the relevant food standard.
- (6) It is hereby agreed that an application to the NFA pursuant to sub-clause (5) shall be expedited by the NFA

so that any recommendation to the NFSC arising from the NFA's consideration of the application shall be made within six months of the application.

(7) The operation of sub-clauses 5(5) and (6) are to be reviewed by the parties within eighteen months after this Agreement comes into force.

(8) Sub-clauses 5(5) and 5(6) shall cease to apply on the parties deciding, after the review, that those sub-clauses shall no longer operate.

6. (1) It is hereby declared that a State may revoke any amendment to a food standard made under clause 5 of the previous agreement.

(2) Where recommended in writing by the NFSC to revoke an amendment referred to in sub-clause 6(1), the State shall do so as soon as practicable.

PART IV - ESTABLISHMENT OF NATIONAL FOOD STANDARDS COUNCIL

7. The Council of Commonwealth and State Ministers established under the previous agreement and known as the National Food Standards Council ("NFSC") shall continue in existence as provided for in this Part.

8. (1) The NFSC shall consist of one member representing each party who, subject to sub-clause (2), shall be a Minister of that party for the time being responsible for administering the functions with which this Agreement is concerned or another Minister acting for that Minister.

(2) A member may appoint a person to attend a meeting in place of the member and a reference in this Agreement (other than in this clause) to a member shall include that person in respect of attendance at that meeting.

9. (1) The functions of the NFSC shall be -

(a) to consider and, if thought fit, to adopt food standards and any amendments thereto from time to time prepared and recommended by the NFA; and

(b) to exercise general oversight over the implementation and operation of uniform food standards.

(2) The functions referred to in Clause 9(1) shall not be delegated to any Minister or to any other person or authority.

10. (1) Ordinary meetings shall be held at such times and places as the NFSC from time to time decides but at least one shall be held in each calendar year. Meetings shall, ordinarily, coincide with meetings of the Australian Health Ministers' Conference.

(2) A special meeting may be convened by the giving to other members in writing by any member of 14 days notice or such shorter notice as may be accepted by all members for the purpose of the meeting.

(3) A matter shall not be raised for discussion at a special meeting unless it was specified in the notice convening the meeting.

11. The quorum for a meeting shall be five members.

12. The member representing the Commonwealth shall be the Chairman of all meetings of the NFSC at which that member is present.

13. A resolution will be carried by a majority of members present and voting on the resolution.

14. A proposed resolution which, without being considered at a meeting, is referred to all members and of which at least a majority of members indicate by mail, teleprinter, facsimile or other mode of electronic communication that they are in favour shall be as valid and effectual as if it had been passed at a meeting duly convened and held.

15. Subject to this Agreement, the NFSC may determine its own procedure and for that purpose may make rules of procedure, including rules relating to notices of meetings and conduct of business at meetings and to voting by members and may from time to time alter such rules.

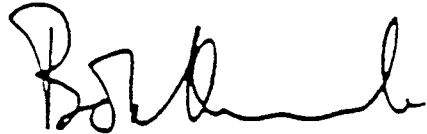
16. A Minister of the Government of New Zealand may attend, as an observer, meetings of the NFSC and proposed resolutions referred to in Clause 14 will be communicated to the Minister.

PART V - WITHDRAWAL

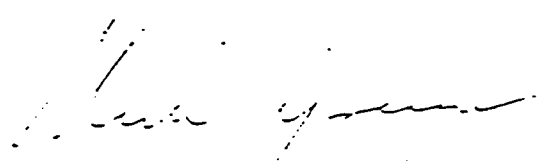
17. (1) A party may at any time by notice in writing to the NFSC withdraw from this Agreement and shall cease to be a party when the notice of withdrawal takes effect.
- (2) A notice of withdrawal under this clause shall take effect on a date to be specified in the notice which is not less than one year from the date on which the notice is given.

IN WITNESS WHEREOF this Agreement has been respectively signed for and on behalf of the parties as at the day and year first above written.

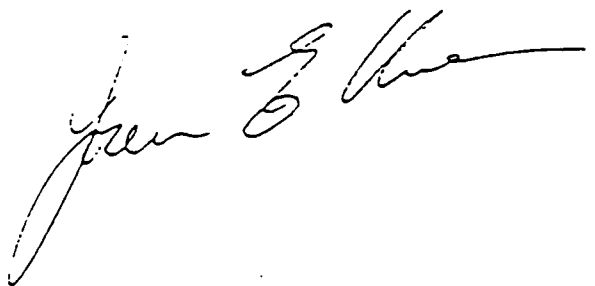
SIGNED by the Honourable ROBERT)
JAMES LEE HAWKE, Prime Minister)
of the Commonwealth of Australia)
in the presence of -)



SIGNED by the Honourable)
NICHOLAS FRANK GREINER, Premier)
of the State of New South Wales,)
in the presence of -)

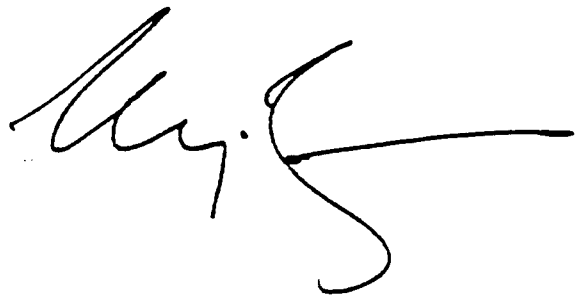


SIGNED by the Honourable JOAN)
ELIZABETH KIRNER, Premier of)
the State of Victoria,)
in the presence of -)



SIGNED by the Honourable WAYNE)
KEITH GOSS, Premier of the)
State of Queensland,)
in the presence of -)

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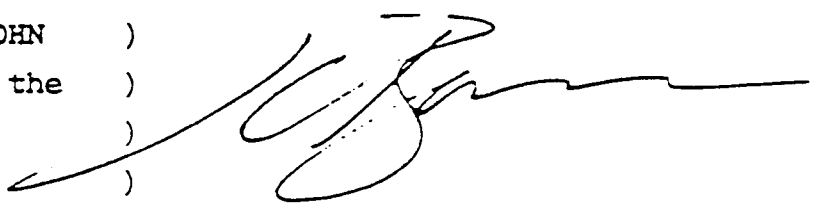
SIGNED by the Honourable CARMEN)
MARY LAWRENCE, Premier of the)
State of Western Australia,)
in the presence of -)

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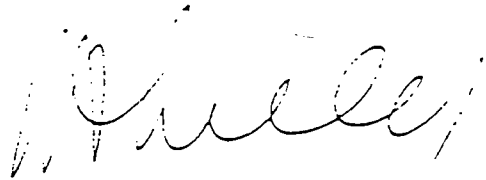
SIGNED by the Honourable JOHN)
CHARLES BANNON, Premier of the)
State of South Australia,)
in the presence of -)

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SIGNED by the Honourable MICHAEL)
WALTER FIELD, Premier of the)
State of Tasmania, in the)
presence of -)

Bbae



SIGNED by the Honourable MARSHALL)
BRUCE PERRON, Chief Minister)
of the Northern Territory,)
in the presence of -)

Bbae



SIGNED by the Honourable ROSEMARY)
FOLLETT, Chief Minister of the)
Australian Capital Territory,)
in the presence of -)

