

19 March 2025
332-25

Call for submissions – Application A1314

Permitting small dogs and cats in aircraft cabins

Food Standards Australia New Zealand (FSANZ) has assessed an application by Virgin Australia Pty Ltd to permit companion cats and dogs in aircraft cabins under controlled conditions and has prepared a draft food regulatory measure. Pursuant to section 31 of the Food Standards Australia New Zealand Act 1991 (FSANZ Act), FSANZ now calls for submissions to assist consideration of the draft food regulatory measure.

Submissions on this application need to be made through the [Consultation Hub](https://consultations.foodstandards.gov.au/) (<https://consultations.foodstandards.gov.au/>).

All submissions on applications and proposals will be published on the Consultation Hub. We will not publish material that we accept as confidential. In-confidence submissions may be subject to release under the provisions of the *Freedom of Information Act 1982*. Submissions will be published following consultation and before the next stage in the statutory assessment process.

Under section 114 of the FSANZ Act, some information provided to FSANZ cannot be disclosed. More information about the disclosure of confidential commercial information is available on the FSANZ website at [Making a submission](#).

For information on how FSANZ manages personal information when you make a submission, see FSANZ's [Privacy Policy](#).

FSANZ also accepts submissions in hard copy to our Australia and/or New Zealand offices. There is no need to send an email or hard copy of your submission if you have submitted it through the FSANZ Consultation Hub.

DEADLINE FOR SUBMISSIONS: 11:59pm (Canberra time) 30 April 2025

Submissions received after this date will not be considered unless an extension had been given before the closing date. Extensions will only be granted due to extraordinary circumstances during the submission period. Any agreed extension will be notified on the FSANZ website and will apply to all submitters.

For information about making a submission, visit the FSANZ website at [current calls for public comment and how to make a submission](#).

Questions about making a submission or application and proposal processes can be sent to standards.management@foodstandards.gov.au.

Submissions in hard copy may be sent to the following addresses:

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Supporting document

The following document which informed the assessment of this Application is available on the A1314 page on the FSANZ website: <https://www.foodstandards.gov.au/food-standards-code/applications/a1314-permitting-small-dogs-and-cats-aircraft-cabins>

SD1 Risk Assessment

Executive summary

Virgin Australia Pty Ltd (Virgin Australia) submitted an application to amend the Australia New Zealand Food Standards Code (the Code) to permit companion animals (pet cats and dogs) in aircraft cabins under controlled conditions. The amendment would permit airlines to continue to serve customers food, as part of in-flight service, with companion animals onboard.

In assessing this application, Food Standards Australia New Zealand (FSANZ) evaluated the microbiological food safety risks of companion cats and dogs in aircraft cabins and risk management measures. Zoonotic pathogens from cats and dogs in aircraft cabins represent a foodborne disease risk to consumers dining in these settings in Australia. This risk may be slightly higher for young children and immunocompromised individuals.

However, the overall level of food safety risk arising from the presence of companion cats and dogs in such settings is expected to be low when appropriate mitigation controls are in place. Keeping the animal in a secure container throughout their journey, prohibiting food handler contact with the animals, adhering to good hygienic practices in food preparation and service, maintaining cleanliness and using predominantly pre-packaged foods will contribute to minimising any potential risk of foodborne transmission of pathogens potentially carried by companion cats and dogs in aircraft cabin environments.

FSANZ assessed the costs and benefits and found the benefits are likely to outweigh the costs. The effect of the amendment enables airlines to allow pets to travel with passengers in the cabin of an aircraft, subject to requirements outlined in this call for submissions. Passengers who wish to travel with pets will benefit, as will airlines who offer the service and potentially other tourism-related businesses. Some passengers are expected to be negatively impacted if they prefer not to travel with pets in the aircraft cabin.

Under current Code requirements, assistance animals such as guide dogs must be permitted onboard, under Standard 3.2.2 – Food Safety Practices and General Requirements. Commercial passenger airlines, as food businesses, are also required to comply with all relevant requirements in Standard 3.2.2 and other food safety standards, including Standard 3.2.2A – Food Safety Management Tools and Standard 3.2.3 – Food Premises and Equipment.

For reasons set out above and in the assessment summary, FSANZ decided to prepare a draft variation to amend clause 24 of Standard 3.2.2 to permit companion cats and dogs in aircraft cabins, provided the animal is kept contained. If approved, the draft variation would provide individual airline businesses operating in Australia with a discretion to allow companion animals in aircraft cabins provided all relevant requirements were met.

FSANZ seeks submissions on the draft variation.

1 Introduction

1.1 The Applicant

Virgin Australia Pty Ltd (Virgin Australia) is an Australian airline company that operates domestic flights within Australia. Their headquarters is in Queensland.

1.2 The Application

Virgin Australia has requested an amendment to clause 24 of Standard 3.2.2 of the Australia New Zealand Food Standards Code (the Code) to permit companion cats and dogs in aircraft cabins. Virgin Australia is intending to implement multiple controls to manage food safety risks, including containment of the animal; with limits on their size, location and number of animals per flight; and provision of pre-prepared, packaged or low-risk foods to customers. The application is intended to permit companion animals in specified food handling areas; that is, onboard planes where food is served to customers.

1.3 The current standards

Australian state and territory food laws require food for sale and food businesses to comply with relevant requirements in the Code.

Section 1.1.1—14 of the Code in effect requires food businesses in Australia to comply with the food safety standards in Chapter 3 of the Code. These standards apply in Australia only.

Chapter 3 of the Code contains Standard 3.2.2 – Food Safety Practices and General Requirements. Clause 24 of that standard provides that a live animal must not be in an area where food (other than seafood, other fish or shellfish) is handled by a food business. The clause provides two exceptions to this prohibition. Food businesses must permit assistance animals (e.g. guide dogs) in areas used by customers. Food businesses may choose to permit a dog that is not an assistance animal to be in an outdoor dining area.

For Code purposes, commercial airlines are considered to be food businesses if they handle (as defined) food for sale in-flight. As such, Australian state and territory food laws and the Code do not permit these businesses to have live animals present in the cabin with passengers (subject to the exceptions noted above).

1.4 Reasons for accepting the Application

The application was accepted for assessment because:

- it complied with the procedural and information requirements under subsection 22(2) of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act)
- it related to a matter that warranted the variation of a food regulatory measure.

1.5 Procedure for assessment

The Application is being assessed under the General Procedure with one public call for submissions.

2 Summary of the assessment

2.1 Risk assessment

FSANZ conducted a safety or risk assessment as part of its assessment of the application. The completed risk assessment is in Supporting Document 1 (SD1).

The risk assessment focussed on the food safety risks posed by companion cats and dogs being present in aircraft cabins. These are microbiological hazards or risks. Non-food risks from cats and dogs and animal welfare aspects are not within FSANZ's remit and were not examined.

The risk assessment examined the common zoonotic pathogens potentially associated with companion cats and dogs in Australia; their common modes of transmission; the likelihood these pathogens are transmitted to humans through a foodborne route; and the food safety risk posed to consumers in aircraft cabins if companion cats and dogs were permitted to be present.

Aircraft cabins present unique challenges for infection control due to their enclosed environment, limited ventilation and close proximity of passengers. These factors may amplify the risk of disease transmission, particularly when pets are not properly managed or if they are carriers of pathogens. Additionally, the presence of animals in proximity to food service areas poses potential contamination hazards that could contribute to foodborne illness among passengers and crew.

Zoonotic pathogens potentially carried by cats and dogs include bacteria, fungi, parasites, protozoa and viruses. The majority of foodborne zoonotic pathogens are transferred between companion animals and humans via a faecal-oral route. Other routes of infection include ingesting animal saliva, urine, bodily fluid or a vector such as a flea or tick from the animal.

The public perception of the risk of disease transmission onboard aircraft is greater than the actual risk. Although aircraft cabins are enclosed spaces, their environmental control system regulates cabin pressure, temperature, ventilation and air filtration. The system aims to maintain air quality and restricts the spread of pathogens. When compared to other food consumption areas, such as cafes or restaurants, the food safety risk onboard an aircraft, where predominantly pre-packaged foods and beverages are used, is greatly decreased. Reported foodborne illness outbreaks on aircraft are rare.

Approximately 47 in-flight foodborne outbreaks resulting in 11 deaths were documented world-wide between 1947 and 2011. In January of 2025, the first reported foodborne illness in 14 years was recorded. The current low incidence of foodborne outbreaks is probably attributable to greater use of pre-packaged meals and improved food handling practices, but may also reflect under-reporting by consumers (as is the case for all foodborne illness).

The identified food safety risks of introducing companion cats and dogs into aircraft cabins can be addressed or appropriately mitigated by strict hygiene and containment measures. Such measures include:

- requiring animals to be in pet carriers that are leak-proof and secure, thereby eliminating contact between animals and food handlers as well as contact with food
- serving only pre-packaged food and beverages
- designating animal-free zones
- ensuring proper hand hygiene practices among passengers and crew
- cleaning and disinfecting surfaces after exposure to pets.

Many of these measures are linked to hygiene requirements in Standard 3.2.2 and

International Air Transport Association live animals regulations and guidelines.

Zoonotic pathogens originating from companion cats and dogs in aircraft cabins represent a foodborne disease risk to consumers dining in these settings in Australia. This risk may be slightly higher for young children and immunocompromised individuals.

However, the risk assessment concluded that the overall level of food safety risk from the presence of companion cats and dogs in such settings would be low if appropriate mitigation controls (such as those listed above) are put in place.

2.2 Risk management

The risk management options after assessment were to either:

- reject the Application, or
- prepare a draft variation of the Code.

After assessing the application, and for the reasons listed in this report, FSANZ decided to prepare a draft variation to the Code.

2.2.1 Preferred risk management approach – proposed draft variation

The proposed draft variation prepared by FSANZ would amend clause 24 of Standard 3.2.2 to allow a food business to choose to permit a companion cat or dog to be present in an area on an aircraft in which food is served provided certain conditions are met. These conditions are that the animal must be in a container and the container is leak proof and prevents direct contact between a food handler and the animal.

In making this decision, FSANZ had regard to the risk assessment, the risk mitigation measures identified in the risk assessment, and the risk management strategies detailed in the application and which Virgin Australia planned to adopt.

FSANZ's risk assessment concluded keeping the animal in a carrier is a significant and effective control. The proposed draft variation will mandate this measure.

Airline businesses handling food for sale in Australia are already subject to all relevant food safety requirements in Standards 3.2.2, 3.2.2A and 3.2.3. An overarching requirement is that businesses must ensure the food they sell is safe and suitable for human consumption. The requirements cover health and hygiene obligations; controls during all food handling steps including food receipt, storage and processing; food handler skills, knowledge and supervision; cleaning and sanitation; and the premises and equipment. These requirements are outcomes-based and centre on food being protected from contamination.

Airlines that are food businesses must ensure these requirements are met, including when they introduce any changes to their operations. This includes the changes that would be required if the proposed draft variation is approved and an airline chooses to permit animals onboard. The airlines concerned would need to revise their usual protocols for cleaning and sanitation, staff training and any other procedures to address those changes and ensure they continue to meet the requirements set by the Code and imposed by Australian food laws.

FSANZ noted the multiple control measures detailed in the application and that Virgin Australia planned to adopt through flight operating policies and procedures, including:

- companion cat or dog is to be kept contained in a carrier approved by the airline
- the animal in the container is to be stowed under the seat in front of the passenger

- designated and limited seat locations for passengers and their contained animal
- food service to provide pre-prepared, packaged or low-risk foods
- controlled cabin air flow and filtering
- provision of biohazard kit in case of emergency spill
- no physical interactions permitted between food handlers (in this case, flight attendants) and companion animals or their food
- passengers not permitted to open the animal carrier inside the aircraft
- cleaning and sanitation regime
- relocation of passengers with animal allergies or compromised immune systems
- provision of animal relief areas at airports
- right to refuse travel, including consideration of the animal's breed and health (including vaccination status and fit-to-fly certification).

It was also noted that airlines operating in Australia are subject to Australian civil aviation laws which restrict what airlines can do or agree to and which impose strict safety requirements.

FSANZ concluded public health and safety would be adequately protected by the above, particularly the existing requirements of Standards 3.2.2, 3.2.2A and 3.2.3, and the proposed requirement for companion animals to be kept in a prescribed container.

Before reaching that conclusion, FSANZ considered whether Standard 3.2.2 should be amended to set an animal size limit and determined it was not necessary. The proposed draft variation's requirement for containment, coupled with the above-mentioned civil aviation laws and Virgin Australia's planned control measures (e.g. under-seat stowage) would limit container and therefore animal size to something comparable to carry-on luggage limits.

Placing carriers under a seat located away from the galley and limiting the number of animals onboard may further reduce potential risks. However, FSANZ found limited evidence to support an amendment to Standard 3.2.2 to prescribe specific locations within the aircraft cabin or the numbers of animals that could be permitted in a cabin.

2.2.2 Risk management conclusion

For the above reasons, FSANZ decided to prepare the proposed draft variation to the Code to permit a companion cat or dog to be present in an area of an aircraft cabin used for dining provided the animal is kept in a container while present. In doing so, FSANZ had regard to the statutory assessment criteria, including the best available scientific evidence and relevant ministerial policy guidelines (see section 2.4).

2.3 Risk communication

2.3.1 Consultation

Consultation is a key part of FSANZ's standards development process. FSANZ developed and applied a standard communication strategy to this application.

The process by which FSANZ considers standards development matters is open, accountable, consultative and transparent. Public submissions are called to obtain the views of interested parties on the draft variation. All calls for submissions are notified via the Food Standards Notification Circular, media release and Food Standards News.

The proposed draft variation will be considered for approval by the FSANZ Board taking into

account public comments received from this call for submissions. If the draft variation to the Code is approved by the FSANZ Board, that decision will be notified to the Food Ministers Meeting (FMM). If the FMM decision is not subject to a request for a review, stakeholders, including the public, will be notified of the gazettal of the Code variation in the Food Standards Notification Circular and on the FSANZ website.

FSANZ acknowledges the time taken by individuals and organisations to make submissions on this Application. All comments are valued and contribute to the rigour of our assessment.

FSANZ also acknowledges the time and expertise of state and territory government representatives in the Food Safety Management Working Group of the Implementation Sub-committee for Food Regulation.

2.3.2 World Trade Organization (WTO)

As members of the WTO, Australia and New Zealand are obliged to notify WTO members where proposed mandatory regulatory measures are not substantially the same as existing international standards and the proposed measure may have a significant effect on trade.

There are no relevant international standards and amending the Code to permit companion animals in aircraft cabins is unlikely to have an effect on international trade. The change would amend an Australia-only standard (Standard 3.2.2) and would solely impact domestic flights in Australia. FSANZ also notes there are airlines operating overseas that already permit companion animals in aircraft cabins. Therefore, a notification to the WTO under Australia's obligations under the WTO Technical Barriers to Trade or Application of Sanitary and Phytosanitary Measures Agreement was not considered necessary.

2.4 FSANZ Act assessment requirements

When assessing this Application and the subsequent development of a food regulatory measure, FSANZ has had regard to the following matters in section 29 of the FSANZ Act:

2.4.1 Section 29

2.4.1.1 Consideration of costs and benefits

FSANZ has assessed the costs and benefits of the proposed regulatory change (as described in section 2.2) and concludes the benefits that would arise outweigh the costs. The reasons for this conclusion are outlined below.

Background to the cost and benefit analysis

Section 29 of the FSANZ Act requires FSANZ to have regard to whether costs that would arise from the proposed measure outweigh the direct and indirect benefits to the community, government or industry that would arise from the proposed measure (paragraph 29(2)(a)).

The purpose of this consideration is to determine if the community, government and industry as a whole is likely to benefit, on balance, from a move from the status quo. This analysis considers permitting companion cats and dogs in aircraft cabins.

The consideration of the costs and benefits in this section is not intended to be an exhaustive, quantitative economic analysis of the proposed measures. In fact, most of the effects considered cannot easily be assigned a dollar value. Rather, the assessment seeks to highlight the likely positives and negatives of moving away from the status quo by permitting companion cats and dogs onboard aircraft cabins.

A regulation impact statement (RIS) has not been prepared. This is because the proposed regulatory change would introduce a new permission rather than a restriction and will have no more than a minor impact. FSANZ's decision¹ to not prepare a RIS is also consistent with the Office of Impact Analysis (OIA)² decision in 2012 that a RIS was not required³ to amend the Code to allow companion dogs in outdoor dining areas (for proposal P1018).

Impact on the community

The proposed regulatory change would impact airline passengers on Australian domestic flights. The change would result in airline passengers being able to travel with their companion cats and dogs, provided the animals are contained and conditions set by airlines are met (see section 2.2 for more information). Passengers choosing to take their pets onboard would need to pay a fee for the transport of their pet and provide the necessary carrier.

Potential benefits to airline passengers include:

- welfare benefits, due to the animal accompanying the passenger on their travel⁴
- greater choice of how to transport companion cats and dogs
- lower cost of pet transport⁵.

In terms of potential costs, there are not expected to be any negative health consequences from foodborne illness. FSANZ assessed the risk of foodborne illness and concluded the risk is low when appropriate controls are in place (see section 2).

The only potential costs to airline passengers are where other passengers object to pets being present on aircraft (a welfare cost). This impact is expected to be minor (relative to the welfare benefits), because:

- pets must be contained in a carrier, preventing contact with other passengers
- the number of pets on a flight is expected to be limited, due to space constraints on aircraft
- airlines could move passengers that object to pets being present to different seats
- it is possible not all flights will allow pets⁶, because individual airlines:
 - may have a blanket policy of not allowing pets airline-wide, which would give passengers the choice of flying on an airline with a different pet carrying policy
 - may offer the service only on selected routes and/or selected flights; reasons for this may include limitations of certain aircraft models, or a policy of limiting the number of flights with pets on a certain route.

Impact on businesses

The proposed regulatory change will impact on airlines that operate Australian domestic flights, noting the use of the permission is voluntary and will therefore only impact airlines choosing to permit companion dogs and/or cats. There may also be positive impacts for

¹ The impact analysis requirements were amended in 2023, as a result the Office of Impact Analysis no longer decides when a RIS is required. For more information, refer to the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies on the Office of Impact Analysis website.

² Known as the Office of Best Practice Regulation, or OBPR, at the time of the decision.

³ The OBPR confirmed this in a letter to FSANZ dated 27 February 2012 (reference number 13575)

⁴ This includes the benefit of having the pet on the aircraft, as well as having the pet for the rest of the journey in cases where the pet wouldn't accompany the passenger in the absence of the permission (for example, the passenger did not want to drive with the pet or put the pet in the cargo hold).

⁵ A desktop survey of international airlines that transport pets (as cargo and in the cabin) on domestic flights indicated the cost of transporting a pet via the cabin costs less on the same airline than the cost to transport the pet as cargo.

⁶ Note – this may result in the benefit for some passengers not being realised.

tourism-related businesses (discussed further below).

The proposed regulatory change will permit contained companion cats and dogs in aircraft cabins where food is served. The absence of this permission is the only remaining regulatory barrier to allowing companion cats and dogs in aircraft cabins – civil aviation regulations (as of 2021) permit the pilot to allow animals onboard if flight safety is not affected⁷.

Potential benefits for businesses include:

- additional profits resulting from the ability to offer additional services, for both airlines and related businesses such as airports
- increase in the amount of available cargo space on aircraft, in cases where cats and dogs that would have travelled as cargo now travel in the cabin
- potential increase in tourism, for passengers who wouldn't have travelled in the absence of this arrangement⁸.

The magnitude of these benefits has not been assessed.

Impact on governments

There may be a minor increase in the cost of enforcing the Code, including the potential for an increase in workload due to increases in complaints received from some consumers.

Conclusions from costs and benefits consideration

FSANZ considers it likely the potential benefits from the proposed change (primarily for airline passengers who wish to travel with their companion cat or dog and for airlines who provide this service) outweigh the potential costs (the most significant being negative impacts on passengers who would prefer not to travel with pets onboard).

2.4.1.2 Other measures

There are no other national measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the application.

2.4.1.3 Any relevant New Zealand standards

There are no relevant New Zealand standards. Standards in Chapter 3 of the Code apply to food businesses in Australia only.

2.4.1.4 Any other relevant matters

Other relevant matters are considered below.

2.4.2 Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

2.4.2.1 Protection of public health and safety

FSANZ considers the proposed variation, together with current food safety requirements,

⁷ See Civil Aviation Safety Amendment (Part 91) Regulations 2018 (F2018L01783) [Explanatory Statement](#)

⁸ This could benefit any business in the tourism industry. For example, hotels may experience an increase in bookings for travellers with pets.

adequately protects public health and safety. FSANZ undertook a safety assessment (see supporting document) and concluded the food safety risk associated with companion cats and dogs in aircraft cabins is low when the animals are kept in containment.

2.4.2.2 *The provision of adequate information relating to food to enable consumers to make informed choices*

No relevant issues were identified.

2.4.2.3 *The prevention of misleading or deceptive conduct*

No relevant issues were identified.

2.4.3 Subsection 18(2) considerations

FSANZ has also had regard to:

- **the need for standards to be based on risk analysis using the best available scientific evidence**

FSANZ used the best available scientific evidence to conduct the risk analysis, which is provided in the supporting document. The applicant submitted a dossier of information and scientific literature as part of its application. This dossier, together with other technical and scientific information, was considered by FSANZ in assessing the application.

- **the promotion of consistency between domestic and international food standards**

This is not a consideration as there are no relevant international food standards.

- **the desirability of an efficient and internationally competitive food industry**

No relevant issues were identified.

- **the promotion of fair trading in food**

No relevant issues were identified.

- **any written policy guidelines formulated by the Forum on Food Regulation**

The *Policy Guideline on Food Safety Management for the Retail and Food Service Sectors*⁹ interprets public health and safety as: 'Public health and safety in relation to food refers to all those aspects of food consumption that could adversely affect the general population or a particular community's health either in the short term or long term'. FSANZ's assessment considered food safety risks within this scope.

3 Draft variation

The draft variation to Standard 3.2.2 is at Attachment A.

A draft explanatory statement is at Attachment B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislation.

⁹ See <https://www.foodregulation.gov.au/resources/publications/policy-guideline-food-safety-management-retail-and-food-service-sectors>

3.1 Implementation

The variation is intended to take effect on gazettal.

Attachments

- A. Draft variation to the Australia New Zealand Food Standards Code
- B. Draft Explanatory Statement

Attachment A – Draft variation to the *Australia New Zealand Food Standards Code*



Food Standards (Application A1314 – Permitting small dogs and cats in aircraft cabins) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of this variation.

Dated [To be completed by the Delegate]

[insert Delegate's name and position]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Application A1314 – Permitting small dogs and cats in aircraft cabins) Variation*.

2 Variation to a Standard in the *Australia New Zealand Food Standards Code*

The Schedule varies a Standard in the *Australia New Zealand Food Standards Code*.

3 Commencement

The variation commences on the date of gazettal.

Schedule

Standard 3.2.2—Food safety practices and general requirements

[1] Subclause 24(3)

Repeal the subclause, substitute:

(3) A food business may permit any of the following:

- (a) a dog that is not an assistance animal to be present in an outdoor dining area;
- (b) a cat or dog that is not an assistance animal to be present on an aircraft in an area that is used for dining, drinking or both drinking and dining if the animal is in a container that:
 - (i) is leak proof; and
 - (ii) prevents physical contact between a food handler and the animal.

Attachment B – Draft Explanatory Statement

DRAFT EXPLANATORY STATEMENT

Food Standards Australia New Zealand Act 1991

Food Standards (Application A1314 – Permitting small dogs and cats in aircraft cabins) Variation

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 1 of Part 3 of the FSANZ Act specifies that the Authority may accept applications for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering an application for the development or variation of food regulatory measures.

The Authority accepted Application A1314 which seeks to allow companion cats and dogs onboard aircraft cabins under controlled conditions. The Authority considered the Application in accordance with Division 1 of Part 3 and has prepared a draft variation - the *Food Standards (Application A1314 – Permitting small dogs and cats in aircraft cabins) Variation* (the draft variation).

2. Variation will be a legislative instrument

If approved, the draft variation would be a legislative instrument for the purposes of the *Legislation Act 2003* (see section 94 of the FSANZ Act) and be publicly available on the Federal Register of Legislation (www.legislation.gov.au).

If approved, this instrument would not be subject to the disallowance or sunset provisions of the *Legislation Act 2003*. Subsections 44(1) and 54(1) of that Act provide that a legislative instrument is not disallowable or subject to sunset if the enabling legislation for the instrument (in this case, the FSANZ Act): (a) facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more States; and (b) authorises the instrument to be made for the purposes of the scheme. Regulation 11 of the *Legislation (Exemptions and other Matters) Regulation 2015* also exempts from sunset legislative instruments a primary purpose of which is to give effect to an international obligation of Australia.

The FSANZ Act gives effect to an intergovernmental agreement (the Food Regulation Agreement) and facilitates the establishment or operation of an intergovernmental scheme (national uniform food regulation). That Act also gives effect to Australia's obligations under an international agreement between Australia and New Zealand. For these purposes, the Act establishes the Authority to develop food standards for consideration and endorsement by the Food Ministers Meeting (FMM). The FMM is established under the Food Regulation Agreement and the international agreement between Australia and New Zealand, and consists of New Zealand, Commonwealth and State/Territory members. If endorsed by the FMM, the food standards on gazettal and registration are incorporated into and become part of Commonwealth, State and Territory and New Zealand food laws. These standards or instruments are then administered, applied and enforced by these jurisdictions' regulators as part of those food laws.

3. Purpose

The Authority has prepared the draft variation to amend clause 24 of Standard 3.2.2 of the Code to allow a food business that is an airline to permit a cat or a dog to be present on an aircraft in an area that is used for dining, drinking or both drinking and dining if certain conditions are met.

4. Documents incorporated by reference

No documents are incorporated by reference.

5. Consultation

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1314 will include one round of public consultation following an assessment and the preparation of a draft variation and associated assessment summary. A call for submissions (including the draft variation) will be open for a 6-week period. Further details of the consultation process, the issues raised during consultation and by whom, and the Authority's response to these issues are available in an approval report published on the Authority's website at www.foodstandards.gov.au.

A working group of representatives from state and territory government food regulatory agencies provided advice to the Authority during the development of the draft variation.

A Regulation Impact Statement was not required because the proposed variation to Standard 3.2.2 is likely to have only a minor impact on consumers, industry and government.

6. Statement of compatibility with human rights

If approved, this instrument would be exempt from the requirements for a statement of compatibility with human rights as it would be a non-disallowable instrument under section 44 of the Legislation Act 2003.

7. Variation

Clause 1 of the draft variation provides that the name of the variation is the *Food Standards (Application A1314 – Permitting small dogs and cats in aircraft cabins) Variation*.

Clause 2 of the draft variation provides that the Code is amended by the Schedule to the variation.

Clause 3 of the draft variation provides that the variation will commence on the date of gazettal of the instrument.

Item [1] of the Schedule to the draft variation would amend Standard 3.2.2 (Food safety practices and general requirements) by repealing subclause 24(3) of that Standard and substituting it with a new subclause.

Subclause 24(3) provides an exception to the requirement imposed by paragraph 24(1)(a) of the Code that a food business must not permit live animals in areas in which food (other than seafood or other fish or shellfish) is handled.

The current subclause 24(3) provides that a food business may permit a dog that is not an assistance animal to be present in an outdoor dining area. Subclause 24(4) provides definition for the terms 'assistance animal' and 'outdoor dining area'.

New paragraph 24(3)(a) will restate the current subclause 24(3). The paragraph will provide that, despite paragraph 24(1)(a), a food business may permit a dog that is not an assistance animal to be present in an outdoor dining area.

New paragraph 24(3)(b) will provide that, despite paragraph 24(1)(a), a food business may permit a cat or dog that is not an assistance animal to be present on an aircraft in an area that is used for dining, drinking or both drinking and dining if both the following conditions are met: the animal is in a container; and that container is leak proof and prevents physical contact between a food handler and the animal. Subclause 24(4) defines what is an 'assistance animal' for the purposes of the paragraph.