Ministry for Primary Industries
Manatū Ahu Matua

Food Safety Law Reform Bill: additional policy proposals

Regulatory impact statement

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Growing and Protecting New Zealand

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Requests for further copies should be directed to:

Publications Logistics Officer
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140

Email: brand@mpi.govt.nz
Telephone: 0800 00 83 33
Facsimile: 04-894 0300

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Agency Disclosure Statement: additional policy proposals for the Food Safety Law Reform Bill

This regulatory impact statement has been prepared by the Ministry for Primary Industries (the Ministry). It provides analysis of two proposals to make the Food Act 2014 more responsive and flexible to meet future market demands, and to avoid potential delays when issuing privileged statements.

The intention of the Minister for Food Safety to include these proposals in a supplementary order paper to the Food Safety Law Reform Bill meant we did not consult the public in advance of the Parliamentary process.

A key constraint of the analysis for the proposal to extend an existing regulation-making power is that all future uses of this power cannot be identified at this stage. Consequently, it is difficult to determine all the net benefits and risks of establishing the power. The Ministry has therefore used its knowledge and experience, and also drawn on general evidence about overseas trends in nutraceuticals, technological developments in 'foods for health', and consumer preferences for more choice, to inform its assessment of the potential impacts, costs, benefits and risks of the proposals on government, the public, industry and food businesses.

There were no constraints on the analysis of the proposal for the Director-General to delegate the ability to issue privileged statements.

Options have been compared with the status quo for both proposals. These options have been assessed against the objectives of providing certainty, enhancing effectiveness of the food safety system, and administrative efficiency.

The recommended options impose the least compliance costs, while helping to meet our international obligations in the first case and improving the management of future responses to food safety incidents in the second case.

Ruth Shinoda
Director, Food and Regulatory Policy
Ministry for Primary Industries

21 / 2 / 2017

Executive summary

1. The Food Safety Law Reform (FSLR) Bill addresses the recommendations from the Inquiry into the Whey Protein Concentrate Contamination Incident that need legislation change to implement. The FSLR Bill also contains minor and technical amendments to make continuous improvements across the food safety system. The Bill has been reported back to the House and is awaiting its second reading.

2. Two policy proposals to be included in a supplementary order paper to the FSLR Bill meet the threshold for regulatory impact analysis. The proposals are:

   A: to extend an existing regulation-making power in the Food Act 2014, to allow substances regulated under health legislation to be declared 'food';

   B: to enable the Director-General of MPI to delegate the power to issue a privileged statement.

3. These two proposals are assessed against the status quo, using the three criteria used in the original regulatory impact analysis for the FSLR Bill, namely: improving certainty; enhancing effectiveness; and administrative efficiency.

4. Proposals that meet these criteria will enhance or contribute to one or more of the five overarching objectives of the food safety regulatory regime, which are: food is safe and suitable; public health is protected; risks are identified and managed; New Zealand's good reputation increases access to overseas markets; and market access is facilitated. The high level impact of each proposal on government, the public, industry and food businesses is also assessed.

5. No substantive issues were raised during the agency consultation.

Proposal A

6. Option 2 (extend the existing power in the Food Act) best meets the criteria and has more positive than negative impacts identified. It will address the interface issue that may act as a barrier to businesses developing foods made from, or containing, substances currently regulated under health legislation, and achieves the intent of the government to provide an immediate legal mechanism to meet New Zealand's obligations under the trans-Tasman Food Treaty. It is easier to implement than amending the Misuse of Drugs Act (option 3), at less overall cost. Importantly, it would allow a food system solution for the future, and is therefore recommended.

7. The status quo option does not address the food-health interface barriers nor provide an immediate legal mechanism for New Zealand to meet its obligation under the terms of the Food Treaty. It therefore does not meet the analysis criteria and is not recommended. Option 3 partly meets the three criteria, but carries the risk of not being able to meet the Food Treaty requirement to legally adopt certain joint food standards "without undue delay" and is therefore less efficient than the option recommended.

Proposal B

8. Option 2 (allowing the delegation of this power) meets all three criteria, has positive and no negative impacts identified, and is recommended. The status quo option only partly meets the criteria, is not as effective or as administratively efficient as the proposed change would be, and carries a risk of delay in providing advice to the public on the safety of food.

1 Context

The food safety regulatory system

The regulatory model

9. Three main Acts regulate food safety – the Animal Products Act 1999, the Wine Act 2003 and the Food Act 2014. The Food Act focuses on ensuring that food for sale (both in the domestic market and for export) is safe and suitable. The Animal Products Act applies to the production and processing of animal products, and has a trade facilitation role that extends beyond purely food safety matters, including giving official assurances to foreign governments. The Wine Act applies to wine produced for the purposes of trade or export, and also has a trade facilitation role.

10. All three Acts apply a similar risk-based model under which:
    - food businesses are responsible for managing food safety risks and meeting the standards set by government;
    - the compliance of food businesses with their risk management plans and programmes is audited by recognised verifiers;
    - the Ministry is responsible for setting the standards that food businesses must meet and for recognising the verifiers (in addition to other roles as the lead agency for food safety).

11. Issues with the food regulatory system can have far reaching consequences. In 2016, the food sector accounted for over half of New Zealand's merchandise exports ($28 billion to June 2016), over 10% of New Zealand's Gross Domestic Product, and employed one in every five employees. The following figures provide an indication of the scope of the system:
    - approximately 45,000 food businesses;
    - approximately 85,000 food premises;
    - food retailing, wholesaling, and manufacturing worth $82.6 billion for the year to June 2016.

Objectives of the food safety regulatory regime

12. There are five complementary overarching objectives of the food safety regulatory system:
    - food is safe and suitable;
    - public health is protected;
    - risks are identified and managed;
    - New Zealand's good reputation increases access to overseas markets; and
    - market access is facilitated.

The Food Safety Law Reform Bill

13. The 2013 "Fonterra botulism scare" made global headlines. Its impact led the Government to establish an independent Government Inquiry into the Whey Protein Concentrate Contamination Incident (WPC Inquiry). During 2013 and 2014 the WPC Inquiry investigated the causes of, and responses to, the incident and examined New Zealand's dairy food safety regulatory system.

14. The Inquiry found that New Zealand's food regulatory system is fundamentally sound, but made some suggestions for improvements. The Government accepted all 38 of the WPC Inquiry's recommendations. Most of the recommendations have been, or are being, addressed through operational or non-statutory means.

15. The FSLR Bill addresses the recommendations that need statute change to implement. It signals to our trading partners the Government's actions and intentions to address gaps identified by the WPC Inquiry and to make continuous improvements to the food safety system. The FSLR Bill amends the three main food safety Acts (Food Act, Animal Products Act, Wine Act) so that, where appropriate, the improvements flow across the system. Cabinet also agreed that the FSLR Bill would contain other enhancements to food safety legislation [EGI Min (14) 20/9 refers].

2 Overarching problem

16. A lack of flexibility to allow the regulatory system to evolve and respond to market demand is creating a barrier for businesses seeking to develop innovative food products.

17. The inability of the Director-General of MPI to delegate the power to issue a privileged statement may result in potential delays in providing certainty to consumers and the market during a food safety incident.

3 Scope of this regulatory impact statement

18. Two policy proposals are discussed in this regulatory impact statement (RIS).

    A: Extending an existing regulation-making power in the Food Act 2014 to enable regulations to be made declaring a substance regulated under health legislation to be 'food' or an ingredient in food.

    B: Enabling the Director-General of MPI to delegate the power to issue privileged statements to the person who is acting in the role in her/his absence.

19. There are no non-regulatory options that could achieve the outcomes these two policy proposals seek.

20. The Cabinet paper seeking approval for a supplementary order paper to the FSLR Bill also contains five technical amendment proposals. Those proposals are not required to be included in this RIS as they either have only minor or no impacts on businesses or individuals and/or are technical revisions to improve legislative clarity.

4 Objectives of the analysis

21. Any changes to the food safety regulatory system should enhance and/or contribute to one or more of the five objectives of the regulatory regime. A proposal will do so if it:

    - provides more **certainty** (for example, the food safety requirements are clearer and more accessible to all parties involved in the food system, businesses know what is expected of them, and public health is thereby protected);
    - enhances **effectiveness** (for example, the likelihood of business compliance is increased; it contributes to the responsiveness of the system to meet future challenges and opportunities; food is fit for purpose – all of which will protect New Zealand's good reputation);

- is **administratively efficient** (for example, compliance costs are kept as low as possible for businesses and regulators while staying consistent with the need for food to be safe and suitable).

22. These criteria were used in the regulatory impact analysis of the policy proposals currently in the FSLR Bill. We have therefore used them to assess the two additional proposals for inclusion in this Bill.

5 Proposals

5.1 Extend an existing regulation-making power in the Food Act 2014 to permit substances regulated under health legislation to be declared to be 'food'

Context

23. The food sector is constantly evolving and New Zealand must be able to continuously adapt the regulatory system to meet new challenges and opportunities, both here and overseas. Every year brings food technology advances, new products and processes, new diagnostic techniques, innovation, and new scientific knowledge about food safety and risk. Technology changes are allowing new combinations of ingredients and food production methods.[1]

24. There is also continuous change and interest in the 'health' aspects of foods and a general trend overseas of a rise in the development of foods with health properties. For example, a 2015 report by KPMG states that the annual global nutraceuticals market is primed for rapid growth and expected to be worth US$250 billion by 2018, and considerable discussion of these trends is readily apparent in the literature (some references below).[2]

25. Technology changes are allowing new combinations of ingredients and food production methods. Consumer preferences are also changing, and citizens are seeking to have more choices over the food available to them.[3]

26. New Zealand has a joint food standards setting system with Australia, underpinned by the Agreement between the Government of Australia and the Government of New Zealand concerning a joint Food Standards System (referred to as the Food Treaty). The Food Treaty harmonises the standards for food labelling and composition between the two countries.

27. Food standards are developed by Food Standards Australia New Zealand (FSANZ). The Australia New Zealand Ministerial Forum on Food Regulation (Ministerial Forum) oversees the joint system and approves joint food standards. The Minister for Food

[1] These themes are best described in the 2014 MBIE Sector Report (in particular p10); the KPMG Agribusiness Agenda - Vol 2 Foresight to the Future also discusses these themes in a NZ context. 10 ways technology is changing our food article from TechRepublic sets out specific advances in food technology. TetraPak Manufacturing Food Manufacturing Trends (pp3 & 4) identifies technology changes affecting food manufacturers.

[2] Euromonitor 2010 figures, cited in KPMG International report: *Nutraceuticals: The future of intelligent food* April 2015 page . The KPMG Agribusiness Agenda - Vol 2 Foresight to the Future discusses consumers' desire for 'health' foods. In 2012, Canada identified this as an area to focus on: see their Regulatory Roadmap for Health Products and Food.

[3] The Mintel Global Food and Drink Trends Report 2016 illustrates all the trends (many of which are new or developing) that consumers are buying in to with food. Mintel is a well-established global market research firm.

Safety is New Zealand's representative on this Forum. The joint food standards are contained in the Australia New Zealand Food Standards Code.

Problem

28. The interface between the definition of food in the Food Act and substances regulated under health legislation is fairly rigid. The lack of flexibility prevents the system from evolving to meet market demand and is posing some problems for businesses wanting to develop innovative foods.

29. New Zealand businesses wanting to take advantage of the trends in innovative foods will be hampered by the legislative barrier disallowing substances categorised under health legislation from being in food products in levels that are safe to consume.

30. There is currently no legal mechanism to adopt an Australia-New Zealand joint food standard approved by the Ministerial Forum when that standard relates to a substance regulated under health legislation. When the Ministerial Forum approves a joint food standard, New Zealand is required by the Food Treaty to take the legislative steps necessary to adopt it "without undue delay".

Options

31. There are no non-regulatory options that could address this matter because the rigidity in the food-health interface is the root of the problem.

Option 1: Keep the status quo

32. The status quo maintains the rigid line between food and health legislation. This means that certain ingredients controlled under health legislation could not be used in food products even at levels that are safe to consume.

33. This option means there is no legal mechanism available for New Zealand to meet its obligation under the Food Treaty to adopt into law without undue delay particular joint food standards approved by the Ministerial Forum.

34. This situation is undesirable. Joint food standards enable trade flows and facilitate the Australia New Zealand single market. They result from thorough technical, scientific, and stakeholder analyses and considerable bilateral discussions. Maintaining positive mutual relationships with our Australian counterparts by upholding the obligations in the Food Treaty is essential to the success of the trans-Tasman food system model.

35. A standard approved by the Ministerial Forum would apply in Australia even if it was not adopted into New Zealand law. Under the Trans-Tasman Mutual Recognition Arrangement (TTMRA), goods that may be legally sold in one country may be sold in the other. This means that if such a standard applied in Australia but not in New Zealand, any goods meeting the new standard in Australia could potentially be sold in New Zealand despite the standard not applying here.

Option 2: Extend an existing regulation-making power in the Food Act to enable regulations to declare substances controlled under health legislation to be, or be an ingredient in, food [preferred option]

36. Section 9(1)(b)(vii) of the Food Act 2014 currently allows the Governor-General, via Order in Council, to declare something to be or not be a food. The definition of food contains things that were known about at the time of drafting. It is common during the

lifecycle of legislation that something originally unforeseen arises, which is why this provision exists.

37. We propose extending the ability to declare something to be a food to section 9(1)(c)(iii) of the Act, which currently excludes medicines, drugs, and psychoactive substances from such a declaration.

38. The amendment will be a general enabling provision that would help future-proof the Food Act. It would allow regulations to be made that permit substances controlled under health legislation to be declared as 'food' when they are at levels safe to consume. These foods would thereby become subject to the protections of the Food Act.

39. Any use of the provision would be subject to Cabinet regulation-making processes, including the requirements for public consultation and regulatory impact analysis before any declaration is made. The Ministry of Health and Medsafe support this proposal.

40. Food technology and food products are continually evolving, and New Zealand must be able to adapt its regulatory system to enable new opportunities and developments.[4] One example of potential use of the proposed provision would be to allow New Zealand to adopt a standard for low-THC hemp seed food products, which is currently under consideration by the Ministerial Forum. If not used to adopt this particular standard, there is still merit in making the proposed amendment to allow for future circumstances where this food-natural health products, food-medicine, food-drug interface issue could conceivably arise.

Option 3: Misuse of Drugs Amendment Bill

41. Another option to allow New Zealand to adopt the particular joint food standard mentioned above would be to amend the Schedules to the Misuse of Drugs Act to exclude specific substances from the various classifications of controlled substances. This option would require development of a Misuse of Drugs Amendment Bill.

42. Developing a Misuse of Drugs Amendment Bill for this one amendment would be inefficient as it would not be a less comprehensive solution, as a further Amendment Bill would be needed whenever there was a proposal for a food to contain such substances.

43. After consideration in November 2016, the then Minister for Food Safety and the Associate Minister of Health did not prefer this option. The key concern was the time required to get such a bill through the House. A lengthy process would mean New Zealand would not fulfil its requirement under the Food Treaty to take the legislative steps necessary to adopt a joint food standard approved by the Ministerial Forum "without undue delay".

Impact analysis

44. Table 1 below sets out the options and analyses them against the criteria of certainty, effectiveness, and administrative efficiency. It includes an assessment of the likely positive and negative impacts of the option on the government, public, industry and food businesses.

[4] Treasury Best Practice Regulation Model 2012 Guide sets out ideal practice around keeping regulatory systems current (refer to durability section on p9). Australia conducted public consultation on their food legislation that also led to this conclusion – see pp10 to 14 of the Australian Export Regulation Review - Final Consultation Report May 2016

Table 1: Options analysis

KEY: **x** does not meet criterion **o** to be determined **+** somewhat meets criterion **++** meets criterion

Criterion	Option 1: Status quo	Option 2: Regulation-making power in Food Act	Option 3: Misuse of Drugs Amendment Bill
Certainty (clarity of requirements for all parties)	**x** - if the standard is not adopted in NZ, would create confusion about the rules and inequity for NZ businesses; Australian products could still be sold in NZ, but not vice-versa	**++** - would clarify the regulatory status of substances controlled by health legislation - builds on existing provision in the Food Act	**+** - uncertainty for industry because of time needed to get such a bill through the House - would clarify the regulatory status of the individual substances that the Amendment Bill covers
Effectiveness (practical, usable, likelihood of compliance is increased)	**x** - inflexible - will not allow future food products to contain different substances - will not meet immediate need to meet NZ's obligation under the Food Treaty	**++** - future-proofs the Food Act to keep pace with food product trends - would allow an approved joint food standard to be adopted into NZ law "without undue delay", as required under the Food Treaty - power would be able to be used in future circumstances that are currently unforeseen	**+** - would allow eventual adoption of a specific joint food standard into NZ law - would only be used to adopt one specific food standard so would be less effective in future-proofing the food system than option 2
Administrative efficiency (minimises or keeps costs as low as possible for businesses and regulators)	**+** - means NZ businesses can not manufacture or sell these products	**++** - uses an existing legislative vehicle (Bill already in the House) - is an administratively efficient mechanism - no direct costs for businesses or regulators from extending this regulation-making power, although subsequent regulations would need to be made on a case by case basis	**+** - would take longer to get a legal mechanism in place (no ready legislative vehicle) - less comprehensive approach; each time a new controlled substance on the MoDA Schedules is proposed to be in food products, another amendment bill may be required - more complicated process as regulations still required after legislative change made
	Not effective	**Meets criteria**	**Partially meets criteria**
Additional impacts Positive	• No positives from retaining the status quo	• *Government*: provides an immediate legal mechanism to meet our international obligation, thereby maintaining NZ's relationship under the joint system	• *Government*: time taken to adopt certain types of joint food standard into law may impact relationship with Australia

Criterion	Option 1: Status quo	Option 2: Regulation-making power in Food Act	Option 3: Misuse of Drugs Amendment Bill
Positive		• *The public*: would potentially allow a wider range of food products for consumers to choose from • *Industry*: removes a legislative barrier to developing innovative food products, particularly in the value-add 'foods for health' area.[5] • *Food businesses*: provides opportunity for growth in novel food product sales	• *The public*: would potentially allow a wider range of food products for consumers to choose from • *Industry*: once in place, would help remove a barrier to developing innovative food products, particularly in the value-add 'foods for health' area • *Food businesses*: if Bill is passed in a timely manner would provide opportunity for growth in novel food product sales
Additional impacts Negative	• *Government:* no mechanism to adopt specific joint food standards • *The public*: less access to food choices available in other countries • *Industry*: potential lost sales opportunities; unable to innovate and respond to trends in food products • *Food businesses*: unable to sell products customers may want	• *Government*: each time the regulation-making power is used, the current food-natural health products, food-medicine, or food-drug interface changes slightly. Depending on its use and the particular proposal, may have potential enforcement issues across the health-food interface that will need to be addressed case-by-case • *Industry*: could blur the regulatory delineation between foods and controlled substances	• *Government:* does not provide immediate legal mechanism to fulfil Food Treaty obligation; potentially requires statute change each time a Schedule change is sought (more complex process) • *The public:* may shift public perception about the acceptability of currently-illicit drugs; delay in ability to access 'foods for health' they want • *Industry:* slow process may mean that the innovation opportunity is missed (leads to imports from other countries); could blur the clear regulatory delineation between foods and controlled substances • *Food businesses:* do not plan to provide these foods to consumers so miss opportunity to grow their business
CONCLUSIONS	**Not recommended**	**Recommended**	**Second best option**

[5] For example, economic analysis by Food Standards Australia New Zealand in 2012 concluded there would be moderate benefits to industry from allowing low-THC hemp seed food products if compliance costs were kept low. If a hemp seed food product standard is proposed for adoption in the future, then a full cost-benefit analysis underpinning that standard will be provided.

Summary

45. Option 2 best meets the three criteria of certainty, effectiveness, and administrative efficiency, and has more positive than negative impacts identified. It will address the interface issue that acts as a barrier to businesses developing foods containing certain substances in levels that are safe to consume, and achieves the intent of the government to provide an immediate legal mechanism to meet New Zealand's obligations under the Food Treaty. It is easier to implement than option 3, at less overall cost. Importantly, it would allow a food system solution for the future, and is therefore recommended.

46. Option 1 is not recommended. It does not address the food-health interface barriers nor provide an immediate legal mechanism for New Zealand to meet its obligation under the terms of the Food Treaty. It therefore does not meet the analysis criteria.

47. Option 3 partly meets the three criteria, but carries the risk of not being able to meet the Food Treaty obligation to adopt certain joint food standards "without undue delay". It is therefore less efficient than option 2.

5.2 Enable the Director-General to delegate the power to issue a privileged statement

Context

48. Under the State Sector Act 1988 the Director-General of MPI may delegate all her/his powers to another person, except where other legislation prohibits delegation. The Food Act, Animal Products Act, and Wine Act currently contain such a prohibition. Note that the analogous power in the old Food Act 1981 (revoked in March 2016) was able to be delegated.

49. The qualified privilege that applies to the statement means the Director-General (that is, MPI) cannot be sued for any error of fact. While the statement is issued by the Director-General, operational management of the issues for which the statement is made is usually the responsibility of MPI's Compliance Services team. On occasion, such incidents are part of a more formal response structure. Recent examples of when privileged statements were made include:

    - warning the public of a potential risk associated with eating imported frozen berries, following four human cases of Hepatitis A when initially there was not sufficient information to initiate a targeted product recall;
    - following identification of imported coconut milk drinks containing undeclared milk or milk products. This incident involved multiple importers, distributors and retailers. As the situation progressed and more affected products were identified, the initial statement was updated and subsequently re-issued twice.

50. In practice, decisions on whether a statement is the appropriate tool to use and the statement's drafting are taken in consultation with all relevant MPI business groups including legal services, and external agencies involved in managing the issue such as the Ministry of Health. The systems in place are robust and well tested.

51. The general delegation provision in the State Sector Act 1988 can be used when the Director-General is absent. However, it does not extend to non-delegable powers because the person (delegate) is not formally appointed into the role. Therefore, the State Services Commissioner would have to formally appoint a person into the Acting Director-General role under section 40 of the State Sector Act before that person could

issue a privileged statement. This formal appointment process would take time when urgent action is needed to address immediate public safety concerns.

52. The Director-General was in Beijing when the November 2016 Kaikoura earthquake occurred. Although no privileged statements were required this time, business continuity planning identified that, were there to be a need, the person acting in the Director-General's role while he was overseas would not have been able to issue such a statement.

Problem

53. Incidents such as the 2013 'Fonterra botulism scare' demonstrate the potential for significant economic harm and reputational damage arising from food safety incidents, even when they are a false alarm.

54. The impact of these incidents is correlated to the length of time taken to resolve them. The Ministry needs to be able to act swiftly if necessary when an incident occurs, even if the Director-General is travelling overseas, on holiday, or otherwise unavailable. At present, the Director-General must remain on call for this purpose at all times.

Options

55. There are only two possible options: either the status quo remains, or a legislative change is made to enable delegation.

Option 1: Keep the status quo

56. Under this option, the Director-General would have to personally remain on call to sign any privileged statement. The delegations made to the person acting in the Director-General's absence would not include the ability to issue a privileged statement.

57. This option would not incur any administrative costs. There are, however, impacts in terms of the emergency response role of the Ministry. This matter has been identified by operational staff as being problematic when an incident occurs.

Option 2: Enable delegation of the ability to issue privileged statements [preferred]

58. Under this option, the three food safety Acts (Food, Animal Products, Wine) would be amended so that, like all other Director-General powers, the Director-General could delegate the power to issue privileged statements. Advice received from within MPI indicates that there are no legal or operational reasons why this power should not be delegated. This option would enhance the Ministry's ability to respond rapidly during a food safety incident.

59. It is also proposed that MPI operational policy limits delegation of this power to the senior manager who is officially acting in the role of the Director-General in her or his absence. This will ensure that the delegation will be made at the appropriate level of seniority, and that it will only apply for the duration of the particular delegation period (that is, it is not vested in a particular individual, nor for longer than is needed).

Impact analysis

60. Table 2 below sets out the above options and analyses them against the criteria of certainty, effectiveness, and administrative efficiency. It includes an assessment of the likely positive and negative impacts of the option on the government, public, industry, and food businesses.

Table 2: Options analysis

KEY: **x** does not meet criterion **+** somewhat meets criterion **++** meets criterion

Criterion	Option 1: Status quo – no delegation possible	Option 2: permit delegation
Certainty (clear requirements)	**++** - all parties currently have certainty	**++** - all parties continue to have certainty
Effectiveness (practical; responsiveness of system; ability to meet future challenges and opportunities)	**+** - more difficult for regulator to respond quickly to publish a statement when a serious incident occurs and the DG is travelling overseas, on holiday or otherwise unavailable	**++** - is more practical than the status quo, having reduced transactions and less risk in retaining confidentiality during the process (eg, IT/email risks when sending documents off-shore) - improves regulator's ability to respond quickly during future food safety incidents
Administrative efficiency (minimises/keeps costs as low as possible for businesses and regulators)	**+** - no cost impacts for businesses (because no change) - may be delays in the public and industry receiving needed information in a timely manner	**++** - administrative efficiency is enhanced - no cost implications for businesses, regulators, or the public
	Partially meets criteria	**Meets criteria (recommended)**
Additional impacts Positive	• *The public:* can easily identify the DG • *Industry/food businesses*: have confidence that the DG personally authorised the statement	• *Government:* potentially lowers health system costs • *The public:* information is available sooner, reducing risk of *illness* from consumption of food • *Industry:* relevant sectors have access to the information earlier, assisting them to rapidly take any action needed • *Food businesses:* affected businesses will be able to take measures (such as their own recalls) quickly
Negative	• *Government:* potential costs to health sector if illness results; potential loss of confidence in the Government's ability to protect the public • *The public:* delay in getting the information could cause illness • *Industry/food businesses*: reputational risk if do not know to recall products quickly enough and illness results	• *Industry/food businesses:* certain businesses may have to act more quickly to address any issues arising from a statement (eg, tracing, recall) than is currently the case
CONCLUSION	**Not recommended**	**Recommended**

Summary

61. Option 2 meets all three criteria, has positive and no negative impacts identified, and is recommended. Option 1 (status quo) only partly meets the criteria, is not as effective or as administratively efficient as the proposed change would be, and carries a risk of delay in providing advice to the public on the safety of food.

6 Consultation

62. During development of the proposals, proposal A was consulted with the Minister for Food Safety and Associate Minister of Health; the Ministry of Health, and Medsafe; and proposal B was discussed with the State Services Commission.

63. The Ministry consulted the following government agencies on this RIS: Ministries of: Business, Innovation and Employment; Foreign Affairs and Trade; Health; Justice; Transport; the Department of Internal Affairs; New Zealand Customs Service; NZ Police, Te Puni Kōkiri; and the Treasury. The State Services Commission, Parliamentary Counsel Office, and the Department of the Prime Minister and Cabinet were informed of the proposals. No substantive issues were raised.

64. Public scrutiny of the proposals will occur during the next Parliamentary stages of the FSLR Bill.

7 Conclusions

65. The recommended options will result in improvements to the food safety regulatory system that meet the criteria of improving certainty, enhancing effectiveness, and being administratively efficient, and have the greatest net benefit. They will contribute to the five complementary objectives of the food safety system of: food being safe and suitable; public health being protected; risks are identified and managed; New Zealand's good reputation increasing access to overseas markets; and market access being facilitated.

8 Implementation plan

66. The Cabinet paper that this RIS accompanies, Food Safety Law Reform Bill: supplementary order paper, proposes that Cabinet approves the proposals recommended in this RIS to be included in the FSLR Bill via a supplementary order paper.

67. Both of the proposals would come into effect immediately the FSLR Bill is passed. Further consultation with stakeholders and separate regulatory impact analysis will be undertaken when the regulation-making power (proposal A) is used in the future.

9 Monitoring, evaluation and review

68. The Ministry oversees the food safety system in partnership with territorial authorities. The Ministry will monitor implementation of the legislative changes as part of its:
    - ongoing food safety monitoring and evaluation programme;
    - stakeholder engagement forums;
    - Food Act 2014 Monitoring and Evaluation Programme.