

NATIONAL CODE OF KAVA MANAGEMENT

Introduction

Purpose

Commonwealth, State and Territory Governments are concerned about the potential health impacts and social consequences of kava abuse in Australia. In recognition of these concerns, the Australian New Zealand Food Standards Council, which is a Council comprising Commonwealth, State and Territory Health Ministers, has endorsed the use of the National Code Of Kava Management as part of a national strategy to promote the responsible sale distribution and advertising of kava in Australia.

The Code of Management applies to all those involved in the supply of kava as a food including importers, wholesalers, distributors and retailers. Kava imported into Australia and presented as a therapeutic good (eg. in a pharmaceutical dosage form with a stated dose and specified therapeutic use) is not subject to this Code of Management.

While Commonwealth, State and Territory Governments recognise the cultural importance of kava to the Australian South Pacific community, the National Code of Kava Management seeks to minimise the negative consequences of kava abuse in Australia. It has been developed in co-operation with governments, communities and industry. It provides a national framework, which all stakeholders can participate in, and take responsibility for, minimising the detrimental effects associated with the abuse of kava.

The National Code of Kava Management is to be read in association with State or Territory legislation addressing specific issues on kava which apply in that jurisdiction.

The National Code of Kava Management has been prepared by the Commonwealth Department of Health and Family Services and the Australia New Zealand Food Authority. It sets out the conditions under which kava can be sold and advertised. It demonstrates:

- the commitment of the Commonwealth, State and Territory Governments to work with industry and community groups to minimise the detrimental health and social effects associated with the abuse of kava in Australia; and
- the commitment of stakeholders to take responsibility, and act responsibly, in accordance with its terms.

Regulatory framework

The National Code of Kava Management should be read in conjunction with the provisions of food law including the *Food Standards Code*. The National Code of Kava Management is intended to supplement the provisions of food regulation and is not taken as overriding or derogating from those provisions.

The Commonwealth Department of Health and Family Services, the Australian Customs Service and relevant State and Territory authorities expect signatories to comply with all requirements of the Code of Management. Compliance with the National Code of Kava

Management will be monitored by the Code Management Group. This Group will also take action in relation to any failure to comply with the Code.

If compliance with the National Code of Kava Management is not achieved through self-regulation, State and Territory authorities will consider incorporating mandatory provisions to regulate the sale and advertising of kava in their separate jurisdictions.

PART 1 - GENERAL

Definitions

1. In this Code of Management:

'Authority' refers to the Australia New Zealand Food Authority and has the same meaning as in section 3 of the *Australia New Zealand Food Authority Act 1991*;

'Code Management Group' means the group established to administer the National Code of Kava Management;

'confidential commercial information' has the same meaning as in section 3 of the *Australia New Zealand Food Authority Act 1991* and is described in the Glossary of this document;

'kava' means the plant, or a derivative of the plant, *Piper methysticum*, whether or not mixed with water;

'licence' means a licence to import kava granted by the Commonwealth Department of Health and Family Services;

'signatory' means a person who has signed the Code of Management;

'supplier' means the importer, distributor and/or retailer who supplies kava for sale, and

'supporter' means any individual or organisation which endorses the *National Code of Kava Management* and may or may not be a supplier of kava.

PART 2 - OBLIGATIONS OF SIGNATORIES

Restrictions on the sale of kava

2. A supplier of kava must be a signatory.

In addition to being a signatory, an importer must have a licence.

An importer must only sell kava to a supplier who is a signatory.

A supplier of kava must not sell or otherwise provide kava to any person under the age of 18 years.

Suppliers, including importers, of kava must take all reasonable efforts to ensure that kava is only available for sale from signatories and sales are in accordance with State and Territory requirements where they exist.

Records

3. A licensee (importer) must keep records of the:

- (a) quantity of kava imported;
- (b) quantity of kava sold to signatories, and their names and address, during the reporting period; and
- (c) dates of all transactions described in (a) and (b) in relation to the sale and receipt of kava.

A licensee must provide the records described above to the Code of Management Group on request by a designated officer.

A licensee must keep records for three years.

Restriction on advertising and promoting kava

4. Kava is not to be advertised or promoted in any journal, magazine, television or radio or any other written or oral media, or in any retail advertising, or through the provision of samples.

PART 3 - CODE MANAGEMENT

Constitution

5. Management of the National Code of Kava Management will, for the first two years, be vested in the Code Management Group. The Group will comprise State and Territory Health authorities:

- an officer from the portfolio of the Northern Territory Department of Health;
- an officer from the portfolio of the Commonwealth Department of Health and Family Services; and
- a Member be drawn from nominees from a State or Territory food authority.

Terms of reference

6. The terms of reference for the Code Management Group are to:

- monitor and review compliance, including any complaints and their status; and
- review and evaluate the Code of Management and role of the Group at the end of the period of operation (i.e. two years).

PART 4 - RESPONSIBILITIES OF MANAGEMENT GROUP

Use of records provided to the Code Management Group

7. Records received by the Code Management Group will not be available to people or bodies other than members of the Code Management Group. Where appropriate, records will be summarised in reports. The Code Management Group may refer any

breach of this Code, offences under other legislation, or other relevant information to appropriate authorities as it sees fit.

Where comparison of records indicates that a signatory to the Code of Management is not complying with the Code, the Code Management Group may:

- Upon notification in writing, require the signatory to give a written undertaking to discontinue, within a specified time frame, any practice which has been determined to constitute a breach or breaches of the Code.
- Upon notification in writing of a breach of the advertising restriction in this Code, require the signatory to issue corrective statements as appropriate. The wording and mode of publication and distribution of such will be subject to the approval of the Code Management Group or a designated State or Territory officer, prior to release/publication.
- When information regarding the breach of the Code by suppliers of kava is received that supplier will be warned by the Code Management Group or a designated State or Territory officer to cease the activity constituting the breach or have their name struck off the list of signatories.
- When information regarding the breach of the Code by a supplier of kava is received, importers will be warned by the Code Management Group or a designated State or Territory officer not to sell to them or face having their licences revoked.
- Where a second breach of the Code of Management is reported to the Code Management Group, the Group or a designated State or Territory officer (after appropriate investigation) can recommend to DHFS that an importer's licence be revoked.
- Loss of a licence to import kava will be publicised to all signatories.

Signing clause

8. Please read and complete the attached Signatory Declaration and return it either by:
Fax: 02 6271 2278

or

Mail: The Kava Code of Management Advisory Group
c/- Monitoring & Surveillance Program
ANZFA
PO Box 7186
CANBERRA MC ACT 2610

Glossary

ACS Australian Customs Service

AQIS Australian Quarantine and Inspection Service

DPSC Drugs and Poisons Scheduling Committee

DHFS Commonwealth Department of Health and Family Services

FST Food Science and Technology Subcommittee

IFIP Imported Food Inspection Program

ANZFA Australia New Zealand Food Authority

ANZFSC Australia New Zealand Food Standards Council (a Council comprising Commonwealth, New Zealand and State and Territory/Health Ministers)

NHMRC National Health and Medical Research council

PHC Public Health Committee (NHMRC)

US FDA United States Food and Drug Administration

'confidential commercial information' in relation to food means:

(a) a trade secret relating to food; or

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