

31994L0035**European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs***Official Journal L 237 , 10/09/1994 P. 0003 - 0012**Finnish special edition: Chapter 13 Volume 27 P. 0005**Swedish special edition: Chapter 13 Volume 27 P. 0005*

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorized for use in foodstuffs intended for human consumption (1), and in particular Article 3 (2) thereof,

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the Economic and Social Committee (3),

After consultation of the Scientific Committee for Food,

Acting in accordance with the procedure referred to in Article 189b of the Treaty (4),

Whereas differences between national laws relating to sweeteners and their conditions of use hinder the free movement of foodstuffs; whereas this situation may create conditions of unfair competition;

Whereas the prime consideration for any rules on sweeteners and their conditions of use should be the need to protect and inform the consumer;

Whereas, having regard to the most recent scientific and toxicological information, these substances are to be permitted only for certain foodstuffs and under certain conditions of use;

Whereas this Directive does not affect rules relating to functions other than the sweetening properties of the substances covered by this Directive;

Whereas the use of sweeteners to replace sugar is justified for the production of energy-reduced food, non-cariogenic foodstuffs or food without added sugars, for the extension of shelf life through the replacement of sugar, and for the production of dietetic products,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive is a specific directive forming a part of the comprehensive directive within the meaning of Article 3 of Directive 89/107/EEC.

2. This Directive shall apply to food additives, hereinafter referred to as 'sweeteners', which are used:

- to impart a sweet taste to foodstuffs,
- as table-top sweeteners.

3. For the purposes of this Directive, 'with no added sugar` and 'energy-reduced` in column III of the Annex shall be defined as follows:

- 'with no added sugar` : without any added mono- or disaccharides or any other foodstuff used for its sweetening properties,

- 'energy-reduced` : with an energy value reduced by at least 30 % compared with the original foodstuff or a similar product.

4. This Directive shall not apply to foodstuffs with sweetening properties.

Article 2

1. Only sweeteners listed in the Annex may be placed on the market with a view to:

- sale to the ultimate consumer,

or

- use in the manufacture of foodstuffs.

2. Sweeteners referred to in the second indent of paragraph 1 may only be used in the manufacture of the foodstuffs listed in the Annex under the conditions specified therein.

3. Except where specially provided for, sweeteners may not be used in foods for infants or young children, as specified in Directive 89/398/EEC (5).

4. The maximum usable doses indicated in the Annex refer to ready-to-eat foodstuffs prepared according to the instructions for use.

Article 3

1. This Directive shall apply without prejudice to specific directives permitting additives listed in the Annex to be used for purposes other than sweetening.

2. This Directive shall also apply without prejudice to Community provisions governing the composition and the description of foodstuffs.

Article 4

Where there are differences of opinion as to whether sweeteners can be used in a given foodstuff under the terms of this Directive, it may be decided by the procedure laid down in Article 7 whether that foodstuff is to be considered as belonging to one of the categories listed in column III of the Annex.

Article 5

1. The sales description of a table-top sweetener must include the term '...-based table-top sweetener`, using the name(s) of the sweetening substance(s) used in its composition.

2. The labelling of a table-top sweetener containing polyols and/or aspartame must bear the following warnings:

- polyols: 'excessive consumption may induce laxative effects`,

- aspartame: 'contains a source of phenylalanine`.

Article 6

Provisions concerning:

- the details which must appear on the labelling of foodstuffs containing sweeteners in order to make their presence clear,

- warnings concerning the presence of certain sweeteners in foodstuffs,

shall be adopted in accordance with the procedure laid down in Article 7 before expiry of the time limit laid down in the first indent of Article 9 (1).

Article 7

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Committee for Foodstuffs (hereinafter referred to as 'the Committee') by the chairman on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

(b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 8

1. Within three years of adoption of this Directive, in accordance with the general criteria of point 4 of Annex II to Directive 89/107/EEC, Member States shall establish a system of consumer surveys to monitor sweetener consumption.

The details of this monitoring system shall be coordinated in accordance with the procedure laid down in Article 7.

2. Within five years of adoption of this Directive, the Commission shall submit to the European Parliament and the Council a report, based on information obtained through the monitoring system referred to in paragraph 1, on changes in the sweeteners market, levels of use, and whether there is a further need to restrict conditions of use, including by means of appropriate warnings to consumers, to ensure that use does not exceed the acceptable daily intake. If necessary, the report shall be accompanied by proposals for amendment to this Directive.

Article 9

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1995. These measures are intended to:

- allow, not later than 31 December 1995, trade in and use of products conforming to this Directive,
- prohibit, not later than 30 June 1996, trade in and use of products not conforming to this Directive; products put on the market or labelled before that date which do not comply with this Directive may, however, be marketed until stocks are exhausted.

They shall inform the Commission forthwith thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

Article 10

This Directive shall enter into force on the date of its publication in the Official Journal of the European Communities.

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 30 June 1994.

For the European Parliament

The President

E. KLEPSCH

For the Council

The President

A. BALTAS

(1) OJ No L 40, 11. 2. 1989, p. 27. Directive as amended by Directive 94/34/EC (see page 1 of this Official Journal).

(2) OJ No C 206, 13. 8. 1992, p. 3.

(3) OJ No C 332, 16. 12. 1992, p. 10.

(4) Opinion of the European Parliament of 29 October 1993 (OJ No C 305, 23. 11. 1993), confirmed on 2 December 1993 (OJ No C 342, 20. 12. 1993), Council common position of 11 November 1993 (not yet published in the Official Journal) and Decision of the European Parliament of 9 March 1994 (OJ No C 91, 28. 3. 1994, p. 81).

(5) OJ No L 186, 30. 6. 1989, p. 27.

ANNEX

>TABLE>