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Directive 98/72/EC of the European Parliament and of the Council of 15 October 1998 amending Directive 95/2/EC on food additives other than colours and sweeteners

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DIRECTIVE 98/72/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 October 1998 amending Directive 95/2/EC on food additives other than colours and sweeteners

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 the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure referred to in Article 189b of the Treaty (3),

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 authorised for use in foodstuffs intended for human consumption (4), and in particular Article 3(2) thereof,

Whereas there have been technical developments in the field of food additives since the adoption of Directive 95/2/EC (5);

Whereas Directive 95/2/EC should be adapted to take account of these developments;

Whereas the Scientific Committee for Food, set up by Decision 74/234/EEC (6), was consulted before the adoption of provisions liable to have an effect on public health;

Whereas specific provisions on thiabendazole have been laid down in Council Directive 95/38/EC of 17 July 1995 amending Annexes I and II to Directive 90/642/EEC on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables, and providing for the establishment of a list of maximum levels (7); whereas the entry on thiabendazole should now be repealed,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 95/2/EC is hereby amended as follows:

1. Article 1(1) shall be replaced by the following:

'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, and applies to additives other than colours and sweeteners. It does not apply to enzymes other than those mentioned in the Annexes,` ;

2. Article 2(1) shall be replaced by the following:

'1. Only substances listed in Annexes I, III, IV and V may be used in foodstuffs for the purposes mentioned in Article 1(3) and Article 1(4),` ;

3. Article 2(2) shall be replaced by the following:

'2. Food additives listed in Annex I are permitted in foodstuffs, for the purposes mentioned in Article 1(3) and Article 1(4), with the exception of those foodstuffs listed in Annex II, following the "quantum satis" principle,` ;

4. The fifth indent of Article 2(3)(a) shall be replaced by:

'- pasteurised and sterilised (including UHT) milk (including plain, skimmed and semi-skimmed) and plain pasteurised cream,` ;

5. The eleventh indent of Article 2(3)(a) shall be replaced by:

'- dry pasta, excluding gluten-free and/or pasta intended for hypoproteic diets, in accordance with Directive 89/398/EEC,` ;

6. The tables of the Annexes shall be amended in accordance with the provisions contained in the Annex to this Directive.

Article 2

1. Member States shall, where necessary, amend their laws, regulations and administrative provisions in order to:

- authorise trade in products conforming with this Directive, by 4 May 2000 at the latest,
- prohibit trade in products not conforming with this Directive from 4 November 2000. However, products placed on the market or labelled before that date which do not comply with the Directive may be marketed until stocks are exhausted.

They shall forthwith inform the Commission thereof.

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 Member States.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 15 October 1998.

For the European Parliament

The President

J. M. GIL-ROBLES

For the Council

The President

C. EINEM

(1) OJ C 76, 11. 3. 1997, p. 34, and OJ C 77, 12. 3. 1998, p. 7.

(2) OJ C 75, 10. 3. 1997, p. 1.

(3) Opinion of the European Parliament of 23 October 1997 (OJ C 339, 10. 11. 1997, p. 1), Council common position of 23 March 1998 (OJ C 161, 27. 5. 1998, p. 29) and Decision of the European Parliament of 15 July 1998 (OJ C 292, 21. 9. 1998). Council Decision of 28 September 1998.

(4) OJ L 40, 11. 2. 1989, p. 27. Directive as last amended by Directive 94/34/EC of the European Parliament and of the Council (OJ L 237, 10. 9. 1994, p. 1).

(5) OJ L 61, 18. 3. 1995, p. 1. Directive as amended by Directive 96/85/EC (OJ L 86, 28. 3. 1997, p. 4).

(6) OJ L 136, 20. 5. 1974, p. 1.

(7) OJ L 197, 22. 8. 1995, p. 14.

ANNEX

1. In Annex I, the following additives shall be added:

>TABLE>

2. In Annex II:

(a) the list of additives and the maximum level for 'Jam, jellies and marmalades as defined in Directive 79/693/EEC and other similar fruit spreads including low-calorie products` shall be supplemented as follows:

>TABLE>

(b) the table concerning 'Sterilised, pasteurised and UHT cream, low-calorie cream and pasteurised low-fat cream` shall be replaced by the following:

>TABLE>

(c) the designation 'Frozen and deep-frozen unprocessed fruit and vegetables` shall be amended as follows:

'Frozen and deep-frozen unprocessed fruit and vegetables; prepacked, refrigerated unprocessed fruit and vegetables ready for consumption and prepacked unprocessed and peeled potatoes.`;

(d) the following table shall be inserted after the table concerning 'Non-emulsified oils and fats of animal or vegetable origin` :

>TABLE>

(e) the list of additives and the maximum level for 'Mozzarella and whey cheese` shall be supplemented as follows:

>TABLE>

(f) the list of additives and the maximum level for 'Canned and bottled fruit and vegetables` shall be supplemented as follows:

>TABLE>

(g) the list of additives and the maximum level for 'Gehakt` shall be supplemented as follows:

>TABLE>

(h) the following table shall be added at the end of the Annex:

>TABLE>

3. In Annex III, Part A:

(a) the maximum levels for 'Olives and olive-based preparations`, 'Emulsified sauces with a fat content of 60 % or more` and 'Emulsified sauces with a fat content less than 60 %` shall be replaced by the following:

>TABLE>

(b) at the end of this part, the following table shall be added:

>TABLE>

4. In Annex III, Part B:

(a) the presentation of the following foodstuffs and maximum levels:

>TABLE>

shall be as follows:

>TABLE>

(b) the maximum level for the entry 'Sugars as defined in Directive 73/437/EEC except glucose syrup, whether or not dehydrated` shall be replaced by the following:

>TABLE>

(c) the following foodstuffs and maximum levels:

>TABLE>

shall be replaced by the following:

>TABLE>

(d) at the end of this Part, the following foodstuffs and maximum levels shall be added:

>TABLE>

5. In Annex III, Part C:

(a) the following foodstuff and maximum level shall be added to E 234:

>TABLE>

(b) the following foodstuffs and maximum levels shall be added to E 251 and E 252:

>TABLE>

(c) the following foodstuffs and maximum levels shall be added to E 280, E 281, E 282 and E 283:

>TABLE>

(d) the following table shall be deleted:

>TABLE>

6. The designation 'Dehydrated granulated potatoes` contained in the table in Annex III Parts B and D in the foodstuffs column shall be replaced by 'Dehydrated potatoes`.

7. In Annex IV:

(a) the designation 'Instant tea powder` concerning E 297 Fumaric acid and the maximum level of 1 g/l shall be replaced by 'Instant products for preparation of flavoured tea and herbal infusions with the maximum level: 1 g/kg` ;

(b) the table concerning E 338 to E 452 shall be replaced by the following:

>TABLE>

(c) the following additive shall be added:

>TABLE>

(d) the designation 'Minarine` concerning E 385 shall be amended as follows:

>TABLE>

(e) the following foodstuff and maximum level shall be added to E 405:

>TABLE>

(f) the designation in the 12th section, third column, concerning E 442, shall be amended as follows:

'Cocoa and chocolate products as defined in Directive 73/241/EEC including fillings`

'Confectionery based on these products` ;

(g) the following foodstuff and maximum level shall be added to E 445:

>TABLE>

(h) the following foodstuffs and maximum levels shall be added to E 473 and E 474:

>TABLE>

(i) the designation 'Low and very low fat spreads and dressings` concerning E 476 shall be amended as follows:

>TABLE>

(j) the following foodstuffs and maximum levels concerning E 551 to E 559 shall be added:

>TABLE>

(k) the designation 'Sliced hard cheese and sliced processed cheese` concerning E 551 to E 559 shall be amended as follows:

>TABLE>

(l) the following foodstuff and maximum level shall be added to E 900:

>TABLE>

(m) the following foodstuffs and maximum levels shall be added to E 901, E 902, E 903 and E 904:

>TABLE>

(n) the following foodstuffs and maximum levels shall be added to E 912 and E 914:

>TABLE>

(o) the following foodstuffs and maximum levels shall be added to E 957:

>TABLE>

(p) the designation 'Margarine` and 'Minarine` concerning E 959 shall be amended as follows:

>TABLE>

(q) the following foodstuff and maximum level shall be added to E 999:

>TABLE>

(r) the following table shall be added:

>TABLE>

(s) the following table shall be added:

>TABLE>

8. In Annex V, the following table shall be added:

>TABLE>

9. In Annex VI:

(a) the first subparagraph of the introductory note shall be replaced by the following:

'Formulae and weaning foods for infants and young children may contain E 414 (acacia gum, gum arabic) and E 551 (silicon dioxide) resulting from the addition of nutrient preparations containing not more than 150 g/kg of E 414 and 10 g/kg of E 551, as well as E 421 (mannitol) when used as a carrier for vitamin B12 (not less than one part vitamin B12 to 1 000 parts mannitol). The carry over of E 414 in the product ready for consumption should not be more than 10 mg/kg.

Formulae and weaning foods for infants and young children may contain E 301 (sodium L-ascorbate), used at QS level in coatings of nutrient preparations containing polyunsaturated fatty acids. The carry over of E 301 in the product ready for consumption should not be more than 75 mg/l.`;

(b) in Part 1, note 2 shall be replaced by the following:

'2. If more than one of the substances E 322, E 471, E 472c and E 473 are added to a foodstuff, the maximum level established for that foodstuff for each of those substances is lowered with that relative part as is present of the other substances together in that foodstuff.`;

(c) in Part 1, the following table shall be added:

>TABLE>

(d) in Part 2, note 2 shall be replaced by the following:

'2. If more than one of the substances E 322, E 471, E 472c and E 473 is added to a foodstuff, the maximum level established for that foodstuff for each of those substances is lowered with that relative part as is present of the other substances together in that foodstuff.`;

(e) in Part 2, the following table shall be added:

>TABLE>

(f) in Part 3, the following table shall be added:

>TABLE>

(g) in Part 4, the following table shall be added:

>TABLE>